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# INVESTIGATION INTO FOOD SAFETY AND INSPECTION SERVICE (FSIS) INSPECTION ACTIVITIES

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## HEARING

BEFORE THE

SUBCOMMITTEE ON
OVERSIGHT OF GOVERNMENT MANAGEMENT

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

MAY 15, 1987

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# INVESTIGATION INTO FOOD SAFETY AND INSPECTION SERVICE (FSIS) INSPECTION ACTIVITIES

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FRIDAY, MAY 15, 1987

U.S. Senate,
Subcommittee on Oversight of
Government Management,
Committee on Governmental Affairs,
*Washington, DC.*

The Subcommittee met at 9:40 a.m., pursuant to notice, in room 342 Dirksen Senate Office Building, Senator Carl Levin, Chairman of the Subcommittee, presiding.

Present: Senators Levin, Cohen, Pryor, Stevens, and Roth.

Also present: Senator Bumpers.

Staff present: Linda J. Gustitus, Staff Director and Chief Counsel; Mary Berry Gerwin, Minority Staff Director and Chief Counsel, Frankie de Vergie, Chief Clerk; Richard Allen, Professional Staff Member; Robert W. Porter, Jr., Minority Professional Staff Member; Trina Bragni and Jeff Carter-Campbell, Interns.

## OPENING STATEMENT OF SENATOR LEVIN

Senator Levin. Today the Subcommittee on Oversight of Government Management is looking into a most serious problem, the problem of food poisoning of American consumers from federally inspected and approved meat and poultry products.

This hearing has been called at the request of the Ranking Republican Member, Senator Cohen, who last year initiated a General Accounting Office investigation into the Federal Safety Inspection Service which will be discussed by our GAO witness later this morning. I commend him for bringing this important issue to the Subcommittee's attention.

Food poisoning is not a new problem. No doubt our prehistoric ancestors suffered illness or death when the food they ate was contaminated. More recently food poisonings from salmonella and other exotic bacteria have significantly increased in the United States in recent years.

In fact, the number of reported food poisoning cases has doubled in the last 10 years, notwithstanding the fact that the Federal Safety and Inspection Service in the Department of Agriculture inspects and labels virtually every piece of meat and poultry that leaves a processing plant.

In my State of Michigan, for example, the number of reported poisonings from salmonella in 1976 was 889. In 1986, 10 years later, the number of reported cases was 1,285, an increase of nearly 50 percent, even though the population has remained nearly constant.

The Federal Government has contended with the problem of food safety since 1906 when Congress enacted the Federal Meat Inspection Act. That Act, as we may recall from our American history courses, was prompted by Upton Sinclair's novel "The Jungle" which described in graphic terms the terrible and unsanitary conditions in the meat processing plants. For the first time a Federal statute required Federal inspectors to inspect the slaughtering and processing of meat intended for interstate or foreign commerce to assure that the meat is wholesome and unadulterated. As a result, deaths from acute infections, the leading causes of death then, declined substantially.

In 1957 Congress enacted the Poultry Products Inspection Act which requires the post-mortem inspection of each and every bird sold in interstate commerce. In 1967, as a result of studies that showed a significant percentage of meat and poultry was sold within the State in which it was produced, both the Meat and Poultry Inspection Acts were amended to require that all meat and poultry sold within the State also be inspected.

Last year Congress enacted the Processed Products Inspection Improvement Act authorizing the Secretary of Agriculture to implement on a test basis a discretionary inspection program where he can determine which processing plants need continuous inspection and which ones need only occasional inspections because of their past compliance with guidelines.

In 1986 Congress appropriated $350 million for FSIS to conduct its inspections to assure that meat and poultry products are safe for consumption by the American consumer. Over 7,000 Federal and State inspectors were assigned to conduct inspections.

What is disturbing—and the reason Senator Cohen requested this hearing—is the fact that notwithstanding the efforts of FSIS, food poisoning cases are rising significantly. Last year as many as four or five million Americans may have suffered food poisoning.

Some of us may have suffered only an upset stomach and nausea for a relatively short period of time thinking it was the workings of a flu bug. Most likely we didn't report it to anyone. Others have suffered worse, being debilitated for several days or more. Worse yet is the fact that perhaps as many as 5,000 Americans died from food poisoning in 1986. Many of these victims were the young and the elderly.

It seems inexplicable to me that in this age of modern technology the American consumers cannot be assured that the meat and poultry products they eat will not make them sick. On the other hand, there is a truism that I've known about for some time, nothing is simple. That seems to be the case here. Salmonella seems to be ubiquitous everywhere: In the farm yard; in the animal feeds; in the stock yards; in the transportation vans; in the slaughtering and processing plants; and, sad to say, in meat and poultry products that we buy in our favorite grocery store.

What complicates the problem is the fact that we can't see salmonella with the naked eye. As dedicated and conscientious as the Federal inspectors are, they cannot know whether meat or poultry is contaminated with salmonella by just looking at it. And, of course, we consumers have no idea whether a meat or poultry product is contaminated when we buy it. There is simply too great a chance that a meat and poultry product may be contaminated despite its attractive appearance and despite the label which says "USDA Inspection and Approved."

What further complicates the situation is the fact that there does not appear to be a quick method or procedure to determine if a meat or poultry product is contaminated with salmonella or other bacteria. A suspicious product may be sent to a laboratory for analysis, but the results don't come back for a few days, and by that time it is too late. The rest of the batch has likely been shipped.

Another complicating factor is that there are over 1,400 strains—varieties—of salmonella, some harmful to human beings and some more virulent than others. Although scientists are studying these micro-organisms, we still don't know as much as we would like to in terms of toxicity.

Add to that the information we are uncovering that some salmonella are developing resistance to antibiotics. Thus, a person who is unlucky enough to contract sickness from a resistant bacteria cannot be effectively treated with antibiotics.

Another part of the problem is chemical contamination of meat and poultry. Again, there are multitudinal sources where meat animals and poultry can become contaminated mainly from feeds that are contaminated. And, again, these contaminants are invisible to the eye. We don't know enough about these chemicals either. How dangerous are they to human beings?

I know FSIS has established a program to study the hundred most toxic chemicals, and I commend the FSIS for it. But even knowing what is dangerous, we often aren't able to trace contaminated meat and poultry to the source of the contamination.

Since this Subcommittee is concerned about the quality of Government management, we are focusing on the activities of the FSIS, the Food Service Inspection Service. But in the course of this hearing we will learn about the responsibilities of other parties in the food chain, the producers and the feed suppliers, the transporters, the processors, the distributors and retailers, as well as the American consumer.

I'm certain that each of our witnesses share in the common objective that meat and poultry products be absolutely safe for consumption. I hope the information that we hear today will guide us on a course of action to address in a more effective way this very difficult health problem. And when I say us, I don't just mean action of the Congress. This is a problem that requires the consensus and cooperation of all parties in finding the best solution.

Senator Cohen.

## OPENING STATEMENT OF SENATOR COHEN

Senator Cohen. Thank you very much, Mr. Chairman.

I have a fairly lengthy opening statement which I will not read since you covered most, if not all, of the points that I intended to raise. I think that, based upon your statement, it's clear that we have a serious health problem facing this country.

We appropriate approximately $300 million each year for our Food Safety and Inspection Service program, and the question is, "are we doing the job that we're supposed to be doing and the one we are paying for?"

I think that you indicated the dramatic increase in cases of reported salmonella poisoning or other related food-borne illnesses—23,000 cases nine years ago, and 56,000 cases as recently as 1985. So, in a period of nine years, it has almost tripled—it presents a serious problem.

I don't want to overstate it, but I also don't want to minimize the significance of the problem facing this country. There are reports which indicate or suggest that it may be as high as 6.5 to 8 million cases annually, some of which are unreported, and that as many as 9,000 people dying annually. So it's a serious problem and it exposes those who are most vulnerable. The infants, the aged and those who are suffering from immune deficiencies are the most vulnerable to food poisoning.

We have a situation in which Federal inspectors are saying that the system has broken down. There have been cut-backs on manpower forced by Gramm-Rudman-Hollings target reductions. There has been a speeding up of the line of production to meet the increased demand, and I've seen some of these operations and, frankly, I must tell you it reminds me of the old line, you know, "Stop the production line, I'm dancing as fast as I can."

I don't know how Federal inspectors can possibly be expected to keep up and visually inspect those carcasses as they go by at an ever increasing pace, and it almost seems absurd to think that we have inspectors on the line that are going to be able to keep up with that kind of pace.

We have complaints about safety being muffled or strangled by the bureaucracy, that the FSIS is becoming too close to the very industry it's supposed to be overseeing, and then we have industry officials who say: Wait a minute, this is simply a case of the unions who are being forced back in terms of their numbers, cut-backs being mandated by Congress because of budget cuts and these people are simply complaining because of the loss of thei jobs and there is no basis for the allegations which are being made.

The purpose of the hearings is to find out exactly where the truth lies, but I must tell you that I am concerned that this stamp of USDA is no longer a stamp of approval. It has become a somewhat misleading empty gesture if what I believe to be the case is in fact occurring.

I think we have to at least find out what this stamp of approval really means and whether we are misleading our citizens into believing that the Federal Government is doing something when in fact it's not.

So, I appreciate your calling the hearings at my request. I know that there has been some suggestion that we are trying to point at one particular industry. This is not an effort to point at the poultry industry or any other industry. We want to find out what is wrong with the nature of our inspection system. Are there changes that have to be made, manpower that has to be increased or techniques that have to be adopted. It's not designed to make a scapegoat of any one industry, particularly not the poultry industry.

If there is a problem there, we have to correct it, but I suspect it applies to the meat industry as well and to a host of other of our food supplies.

I thank you, Mr. Chairman, for calling the hearing.

[Senator Cohen's prepared statement follows:]

## PREPARED STATEMENT OF SENATOR COHEN

Today the Subcommittee on Oversight of Government Management is exploring an issue affecting all of our nation's consumers, namely, how well the federal government is doing its job of ensuring the health and safety of the food it inspects. Since as far back as 1907, following revelations in Upton Sinclair's book, "The Jungle," of atrocious, unsanitary conditions in the meatpacking industry, the Congress has found it essential to protect the health and welfare of consumers by assuring that meat products distributed to them are wholesome and unadulterated. For the past 30 years, the Congress has mandated that this same protection be extended to poultry and poultry products.

The task of protecting the public's health and safety in these areas has been delegated by Congress to the Food Safety and Inspection Service, known as the FSIS, within the Department of Agriculture. With a field force numbering approximately 8,000 and a technical and scientific staff, the FSIS reviews meat an poultry plants across the United States, monitors the inspection programs of over 30 foreign countries, and reinspects imported meat and poultry products entering the U.S. market. Additionally, since 1972, the FSIS had conducted a comprehensive program to educate consumers about food safety.

While the Congress appropriates over $300 million annually to the FSIS to inspect meat and poultry sold to consumers, serious questions have arisen over whether the FSIS is doing all it can to prevent the sale of meat or poultry that is unwholesome, spoiled, or deleterious to health. In 1985, and agains as recently as this week, the National Academy of Sciences has issued critical reports on the FSIS inspection program, concluding that while the FSIS has been effective in removing grossly damaged and diseased animals and products from the food supply, the federal inspection process does little, if anything, to protect the public from current major health risks, namely microbial and chemical contaminants in poultry and meat. This finding, which has been echoed by consumer groups and scientists, raised the question of whether our federal inspection program, which relies on visual inspection of meat and poultry, is missing the mark of the real food health threats that are facing the public today.

Recently, the performance of the FSIS has been thrust into the public limelight due to concern over a dramatic increase in salmonella food poisoning cases and related foodborne illnesses. According to the federal Centers for Disease Control, over 56,000 cases of salmonella food poisoning were reported in 1985, representing a sharp increase over the 23,000 cases reported nine years earlier. Other studies and scientists estimate that the actual number of foodborne illnesses, most of which go unreported, may range as high as 6.5 million to eight million cases annually, with 9,000 persons dying from such illnesses every year. The federal Centers for Disease Control estimates that over three million of these cases can be attributed to meat and poultry products, which are the same products that have been inspected by the FSIS. Salmonella and other foodborne contaminants can pose serious health risks, and can be even life threatening to infants, the aged, the malnourished, and those suffering from immune difficiencies. Several press reports have suggested that the increased production of poultry to meet rising consumer demand has been a contributing factor to the high incidence of salmonella, and that the federal government is not doing enough to protect the public from this health threat.

These stories come at the same time that internal critics of the FSIS, such as inspectors and veterinarians who have hands-on experiences in how the inspection program work, are alleging that a total break-down of the inspection system has occurred. Allegations by inspectors are serious and disturbing, including such charges that the USDA is working more to accommodate industry profits and increased production than to prevent death and illnesses of consumers. Inspectors and veterinarians cite problems of lax enforcement against plants and severe staff shortages that overburden the inspection system. Some inspectors charge that they have had their comments and recommendations about the quality of particular plants in which they have worked changed by agency review teams or ignored by agency management, and that sanitation reports of plants may have been falsified by the USDA or companies to hide the fact that sanitation violations have gone uncorrected. Many of the inspectors further allege that the agency has taken retaliatory actions against them when they have gone public with their concerns. Unfortunately, many inspectors no longer believe that they will be backed up by USDA management when they seek to enforce the law. Today, the Subcommittee will hear testimony from inspectors about such experiences they have had in the field.

The result of these external and internal criticisms is, in the words of FSIS Administrator Donald Houston, that we are nearing a "credibility gulch about processing and inspection that, even if unfounded, could directly affect the public's confidence in their poultry supply." Equally of concern to the Congress is that the public could lose faith in how well the government is performing its duty to deliver wholesome and safe meat and poultry to consumers' tables.

There are many responses to the charges levied in the press and by critics of FSIS. Some dismiss the recent concerns as an unjustified public outcry, while others believe that the FSIS must reevaluate its management and enforcement strategies. The answers on how to deal with this problem are equally varied, ranging from calls for more consumer education on how to guard against contaminants through hygiene practices to recommendations that the FSIS employ microbiological testing for invisible contaminants. Still others recommend that the poultry and meat industries alter their processing procedures to reduce the spread of such contamination. Today's hearing will provide an opportunity to review the problems now facing the meat and poultry inspection program and to hear several views on how to address these concerns. We will also question whether there are ways that the inspection service can work cooperatively with the poultry and meat industries to improve the quality of these products sold in the United States.

I look forward to hearing the testimony from today's witnesses to determine what steps we can take to improve the safety of the meat and poultry products that we consume and to guard against a return to the "Jungle."

Senator Levin. Thank you very much, Senator Cohen.

## OPENING STATEMENT OF SENATOR PRYOR

Senator Pryor. Well, Mr. Chairman, I appreciate you calling this hearing. And I would like to be very honest and upfront with you, Mr. Chairman, and our distinguished ranking member about my interest in this subject.

One out of every 12 people in the State of Arkansas today are employed because of the poultry industry. So I'm vitally interested in this hearing.

I'm also vitally interested in this hearing because in all due respect to both of my good friends who have made statements this morning, you've discussed only one aspect of this problem, food problems not generically, but you've talked specifically about the problems in inspections of meat and poultry. No mention of fish, no mention of Maine lobsters, no mention of shell fish, no mention of shrimp where there is no inspection program.

Senator Cohen says this program is broken down in the meat inspection industry and poultry industry. Well, at least we have an inspection program. But in some mysterious way there is no inspection of fish in this country.

I do come from a poultry producing State, Mr. Chairman, and our poultry producing industry stands four square behind the most rigid, efficient and thorough inspection program that we can have in this country. Even the industry's official response to the National Academy of Sciences' report issued Tuesday was a very, very positive response, a response that pledged cooperation, a response that indicated even more than a willingness to cooperate, and a response I think that was very mature and certainly very, very important.

Mr. Chairman, here is a newspaper ad,"Be a Safe Food Handler," just recently put out by one of the major grocery chains of America. Now they didn't put this advertisement in all the papers in this area or around the country just to try to get people to wash their food or to cook it at a certain temperature. They did it for a very specific reason and that reason was, Mr. Chairman, that they recently had an outbreak of food poisoning because many consumers bought lasagne in their stores that was contaminated with salmonella.

This is a very reputable chain of supermarkets. They take pride in maintaining rigid quality assurance and sanitation procedures. Nonetheless, they encountered a problem which made them realize while such procedures are vitally important, consumers must also be adequately educated about the safe handling of all perishable foods, not just frozen lasagne, but all meat, all poultry and yes, all seafood.

The Food Safety Inspection Service, which is being examined today, inspects meat and poultry but does not have the jurisdiction to inspect fish. The Food Safety Inspection Service has 8,000 inspectors, veterinarians and others who watch over 7,200 plants. The Food and Drug Administration which oversees processed foods has the equivalent of 400 full-time inspectors who oversee 60,000 plants.

We do have a problem, Mr. Chairman, but the problem doesn't just relate to one particular industry. We are going to hear people testify here today that we need to improve the food inspection process, and I look forward to that testimony. If there are problems with that process, I feel very strongly that we need to correct them and we need to correct them now.

I'm going to be up front once again and state that our industry is going to be on the cutting edge of making whatever improvements are necessary. We must have an inspection service that gives our consumer absolute and total confidence in the food that they eat.

Mr. Chairman, I'll tell you something, and I just want to be very blunt about it, if you eat a chicken that is uncooked, if you eat a raw chicken, you're going to get sick. [Laughter.]

A lot of our problem has to do with consumer education, and we want to talk about some of that.

Mr. Chairman, I would like for my full statement to be placed in the record. I thank you, and I yield.

Senator LEVIN. Thank you, Senator Pryor, and of course your full statement will be made part of the record.

[Senator Pryor's prepared statement follows:]

### PREPARED STATEMENT OF SENATOR PRYOR

Mr. Chairman, we are here today because we all want to make sure the food we eat is not only wholesome and nutritious, but is also safe to eat.

Today and in future discussions, we need to determine the federal government's proper role in inspecting and regulating the foods we eat, as well as the education of consumers as to the safest way to handle food once it leaves the grocery shelves.

The need for consumer education is extremely important. Obviously, the federal government can't regulate our food all the way to our mouths. And recent statistics show that many of our contamination problems occur once the food leaves the store.

Just this week I came across a full-page advertisement in a Washington newspaper which attempted to tell people how to be "a safe food-handler."

This advertisement stressed the need to properly store, handle, prepare and cook all meat, poultry and seafood out of the refrigerator for more than two hours; wash hands thoroughly with hot soapy water before and after handling any raw meat; cook meat, poultry and seafood to at least 165 degrees.

The advertisement was placed in the newspaper by a large and reputable supermarket chain. That chain recently had to deal with an outbreak of illness by customers who bought frozen lasagna from its stores that was contaiminated with salmonella.

Mr. Chairman, this is a supermarket chain that takes pride in maintaining rigid quality assurance and sanitation procedures for its products. Nonetheless, they encountered a problem which made them realize that, while such procedures are vitally important, consumers must also be adequately educated about the safe handling of all perishable food—not just frozen lasagna, but all meat, poultry and seafood.

I am concerned by recent reports that we need to look into our federal food inspection process. Much of the recent publicity surrounding such reports particularly concerns the inspection process for poultry.

But the problem cannot be adequately addressed by focusing on just one type of food alone. Perishable food is perishable food, whether it is poultry, meat, dairy or seafood. Just as the supermarket chain chose to address all types of food, we cannot fully help consumers by focusing only on poultry.

A recent check of major salmonella outbreaks over the past 10 years revealed a number of cases involving processed foods such as cheddar cheese, pasteurized milk, pre-cooked roast beef and chocolate bars.

The Food Safety Inspection Service, which oversees meat and poultry, has 8,000 inspectors, veterinarians and others who watch over 7,200 plants. But the Food and Drug Administration, which oversees processed foods, has the equivalent of 400 full-time inspectors to oversee 60,000 plants.

I also recently learned that while the poultry industry is subjected to mandatory inspections of every single bird, the federal government has only a voluntary domestic fish inspection program in place that inspects little more than 10 percent of the fish and shellfish consumed by Americans each year. This is despite the fact that the Centers for Disease Control have estimated that as much as one-fourth of the outbreaks of food-related illnesses where the contaminating agent can be identified can be traced to seafood.

We are going to hear people testifying today that we need to improve the food inspection process. And I just want to say that if there are problems with that process, I feel very strongly that we need to correct them.

I'll be up front with you about the poultry industry in my home state. The industry is Arkansas' largest employer and is extremely important to the state economy.

Even so, I do not believe that my state or the industry has anything to gain by an inspection process that does not give consumers full confidence in poultry products. I want and I believe the poultry industry wants the best inspection system we can possibly have. Clean processors have a vested interest in making sure careless processors do not give the entire industry a bad name.

For that reason, I welcome improvements in the poultry inspection process.

And, once again, another key element that must be involved here is the need for consumer education. Just as the supermarket chain discovered, rigorous quality assurance programs are not enough, because once a perishable product leaves the store, bacterial growth can still become a problem unless consumers are careful to handle the food properly.

The National Academy of Sciences underscored this point in a report issued this week on the government's poultry inspection program. The scientists who issued the report called for clear labeling that would instruct consumers how to properly handle and cook poultry products.

In short, Mr., Chairman, we must make sure the food we eat is safe. To do this, we make sure that rigid quality assurance and sanitation procedures are in place to protect the public and to retain consumer confidence. But we must also make sure attention is given to all perishable foods. And we must realize that there comes a point when quality assurance is not enough and that consumers must be educated about what they can do to ensure that the best efforts of industry and government are not made in vain.

Senator **Levin**. Senator Stevens.

## OPENING STATEMENT OF SENATOR STEVENS

Senator **Stevens**. Mr. Chairman, I'm pleased to be here because of the fact that flowing through this hearing will be the word "salmonella." Now as a salmon lover, I've come to give just a little bit of a lesson, and then I hope I'll fade from the scene.

Salmonella is a bacteria that is pathogenic for man and warm-blooded animals. It is not derived from salmon. [Laughter.]

It was named after Danial E. Salmon, an American veterinarian, and contrary to what my good friend just said here about chicken, I want you to know that I regularly eat raw fish. I love raw fish and you don't have the same problem in cold-blooded fish as you have in warm-blooded animals.

Now, we do have a problem downstream as far as decaying fish, which would be the same as any decaying of food, but not in terms of the bacteria that is present in warm-blooded animals.

Incidentally, we do have some seafood inspection problems and they are basically the problems of inspecting the mechanisms for preservation of fish rather than inspecting the fish themselves.

But I do hope that my friends who are looking into this problem will keeping my comments in mind, and it is a difficult problem for a State like yours, Senator. I remember some of the problems we have gone through with fish, mercury in fish and other things. We've weathered those storms.

But salmonella is not a disease of salmon. [Laughter.]

And I hope that if we can all agree on that to begin with, as I said, I will go on to my other hearing and I'll not have to stay here to defend my favorite food.

So I hope that you'll accept that statement, Mr. Chairman, and I will be back after that other hearing is over.

Thank you very much, Mr. Chairman.

Senator **Levin**. Thank you very much, Senator Stevens.

Let me then reiterate at least two of the ground rules here. We are not focusing on any one product and salmonella is not a disease of salmon. [Laughter.]

Senator **Cohen**. Or Maine lobster. [Laughter.]

Senator **Levin**. Or Maine lobster.

We have the ground rules straight and I will call on our witnesses.

I thank all the Senators for their interest in this very important subject.

Our first witness today is Dr. Donald Houston, Administrator of the Food Safety and Inspection Service, which has responsibility for the inspection of meat and poultry.

Dr. Houston, it is a pleasure to have you with us here today, and we would appreciate your summarizing your statement. The entire text will be placed in the record, and I do apologize for calling the Food Safety and Inspection Service a different name a few moments ago. I know you and your good staff will forgive me for that and you won't tell anybody about it.

Dr. Houston.

## TESTIMONY OF DONALD L. HOUSTON, D.V.M., ADMINISTRATOR, FOOD SAFETY AND INSPECTION SERVICE, U.S. DEPARTMENT OF AGRICULTURE,[1] ACCOMPANIED BY LESTER CRAWFORD, D.V.M., ASSOCIATE ADMINISTRATOR

Dr. HOUSTON. Thank you, Mr. Chairman.

I would like to take this opportunity to introduce Dr. Lester Crawford who sits to my left who is the Associate Administrator of the agency.

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you to discuss productivity within the Food Safety and Inspection Service.

I'll just say parenthetically that was the thrust of the letter which was sent to me to discuss that particular area. So I'm going to spend some time there, and we'll speak to the salmonella issue at the latter part of the testimony.

We recognize that our No. 1 priority is to provide consumers with a safe and wholesome meat and poultry supply, but we also recognize our responsibility to the American taxpayers to ensure that their tax dollars are well spent.

Today I'll present an overview of the inspection program, including a description of our organizational structure, the changes we've made to modernize our program, the methods we use to ensure that inspection is carried out effectively and our plans for the future.

We realized long ago the potential for modernization and increased productivity within the inspection program. Over the last two decades the agency has felt the pressure to change from all sides, and we've had to respond.

Some of the loudest calls for change have come from a modernized meat and poultry industry. Productivity is on the rise, as industry has taken advantage of technological advances. Improved animal husbandry has resulted in better animal health. Particularly in poultry there is more uniformity in the birds presented for slaughter. Plants are using sophisticated technology, many plant operators recognizing the benefits that can be reaped from tighter control over their own production through use of quality control programs.

Pressure to modify the inspection program also came from Congress. While our budget has experienced a 12-fold increase over the past 25 years, from $30.5 million in 1960 to about $374 million in 1987, our costs have risen even faster.

A number of factors have worked to create this situation. Inflation is one. We also have had to take over a number of State inspection programs mostly because the States could no longer afford to operate them and the volume of product has grown significantly.

Pressure to change came from within our own agency as well. With the rapidly increasing diversity of meat and poultry products in the marketplace, we realize several things. One, we didn't need to inspect every product the same way. Two, we didn't need to inspect for things that were no longer a problem. And, three, we needed to use new technology to our own advantage.

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[1] See p. 81 for Dr. Houston's prepared statement.

Before I describe the improvements we've made in the inspection program, I would like to provide you with a general description of the inspection program. The agency carries out its responsibilities under the authority of the Federal Meat Inspection Act and the Poultry Products Inspection Act. These laws protect consumers by assuring the meat and poultry products are wholesome, unadulterated and properly labeled.

Last year our inspectors examined 121 million red meat animals, almost 5 billion birds and supervised production of 67 billion pounds of processed meat and 60 billion pounds of processed poultry. In addition, we monitored inspection programs in 33 foreign countries and reinspected 2.5 billion pounds of imported meat and poultry.

In their search for unacceptable products, our inspectors condemned 378,000 red meat carcasses and 55 million birds. They also condemned 136 million pounds of processed products and refused entry to almost 13 million pounds of imported goods.

Our compliance officers made 53,000 reviews of businesses engaged in transporting, storing and distributing meat and poultry products during the last fiscal year. They detained over 22 million pounds of suspect products, issued over 1,600 letters of warning, filed 12 administrative actions to withdraw inspection and handled 33 cases that eventually led to convictions for violations of Federal inspection laws.

In support of these activities we have a highly skilled technical and scientific staff. This critical staff is responsible for managing a range of activities, including the development and testing of new inspection procedures as well as analytical tests for chemical and microbiological contamination. We also have three field laboratories and several small laboratories in Beltsville, Maryland, that last year analyzed approximately 120,000 samples of meat and poultry.

In-plant inspection activities by far require the greatest proportion of the agency's people and money resources. We have approximately 8,000 inspectors, veterinarians and food technologists stationed in over 7,200 meat and poultry plants.

In-plant inspection involves checking live animals before slaughter, carcasses after slaughter and the inspection of processed products in all stages of production. The in-plant inspectors represent the operational level for inspection. The inspector-in-charge at the plant provides first-line supervision to the inspection force. He or she deals with plant management to report on the status of operations in meeting USDA inspection requirements or to handle problems as they arise.

In large slaughter operations a veterinarian is usually the inspector-in-charge because his or her full-time presence and technical judgment is required. In small slaughter operations the inspector-in-charge may be a food inspector who reports to a veterinarian who is in charge of a number of smaller plants. The inspector-in-charge in processing operations is usually a food inspector.

As you can see, FSIS is a very labor intensive agency. Out of our expected Federal operating budget of $338 million, about 86 percent of those funds is required for salaries and benefits. These figures exclude State grant money. Our next biggest expenditure is for travel with over $18 million required to transport our inspectors and supervisors to and from their inspection assignments.

To give you a breakdown of our budget by program area, we've budgeted $213 million for slaughter activities, $93 for processing activities, $9 million for import-export activities, $23 million for laboratory services and $35 million for the grants to States program.

We are fortunate that Congress has shown it's support for our program by consistently providing us with a budget that enables us to carry out these activities effectively. But we have received those much needed dollars only after close scrutiny. In fact, this careful scrutiny spurred us to find ways to do our jobs more efficiently.

Even as recently as the early 1960's staff allocations in the meat and poultry inspection program are made on the basis of professional judgment. Judgment worked well enough until we were called upon by Congress to justify the number of inspectors in our work force. We couldn't do it in any scientific manner.

That is when we introduced industrial engineering as a rational, consistent and equitable method of determining how many people we needed to do the job before us and how to distribute that work among individuals. We developed staffing standards that indicated how many inspectors were needed for slaughter plants operating at various speeds and how many inspectors were needed to do a certain number of tasks in processing plants.

At that time developing work standards was a significant step, but it turned out to be just a stepping stone to the changes that were ahead of us. Now that we had a way to relate amount of work performed to the number of inspectors, we began to explore ways to simplify the inspectors' work so that fewer inspectors would be needed.

Due to the incredible growth of the poultry industry and the fact that healthy birds were being raised, this is the area where we first began work simplification. We began studies on ways to simplify the work. Were there wasted hand motions? Could tasks be consolidated? For instance, for some diseases, we had visual and manual examination. Were both necessary?

Our first new poultry inspection procedure developed in 1978 was modified traditional inspection. It was a revolutionary procedure for us. We went from the traditional one inspector looking at one bird approach to a sequenced procedure where the inspection tasks were divided up among inspectors, as in an assembly line. The procedure also involved the use of mirrors so that the inspector could see the back of the chicken without having to turn it around, a step which previously took up to 50 percent of the inspector's time.

This procedure was the backbone of our poultry inspection program for a number of years. At the same time, innovations were taking place in processing inspection. If slaughter is where the inspection system began, processing is where it is heading.

In the early part of the century, when our first inspection law was passed, relatively few processed products were made. However, in the past 20 years, production rose 20-fold. More than 1,000 different types of processed products are on the market, ranging from the familiar sausages and cold-cuts to frozen dinners.

To accommodate these developments, many manufacturers turned to quality control to assure consistency in their operations and we, looking for ways to meet our regulatory responsibilities more efficiently, decided to piggyback on quality control systems already in place for data on which to base inspection decisions. The use of quality control was a big step because it was a beginning of a trend where industry and government began working together toward a common goal.

The idea of a regulatory agency using industry generated data to make decisions on whether a plant is meeting inspection requirements was a revolutionary concept and one which generated a lot of controversy from all sides. Companies that were not already using quality control claimed setting up such systems would cost too much money. Inspectors claimed they would lose control over the plant's operation by not generating their own data and observing every procedure in the plant.

Senator LEVIN. Doctor, I'm wondering if I could just interrupt you for one moment because we are going to have a scheduling problem here. We have a vote coming up on a cloture petition. You, I understand, have to leave at a certain time as well. Is that correct?

Dr. HOUSTON. Yes, sir. The Department is celebrating its 125th birthday.

Senator LEVIN. Well, for whatever reason.

Senator COHEN. Are you serving Maine lobster or chicken? [Laughter.]

Dr. HOUSTON. I'm sorry?

Senator COHEN. I'm just teasing.

Senator LEVIN. You could pick that up on a replay.

Dr. HOUSTON. Okay. [Laughter.]

Senator LEVIN. Can you quickly summarize. Here's the problem. At 10:25 we're going to recess for five minutes, and each of us would like to have about 5 minutes of questions with you. So if you could quickly summarize, we could then get our total 15 minutes of questions in and then you could leave and then we could go vote.

Senator PRYOR. Well, just a minute now. What time does Dr. Houston have to be at the birthday party?

Dr. HOUSTON. Senator, it's important that I be back there, but I think this hearing is more important.

Senator LEVIN. What time do you have to leave, Doctor?

Dr. HOUSTON. I would like to leave at 10:30, but I want to assure the Subcommittee that I will stay here as long as is necessary. I will send someone back to the Department to tell them that I will not be there if that's the case.

Senator LEVIN. That's fine. Can we do this then. If you could bring your testimony to a close now, we'll each take 5 minutes and then at 10:25 we'll decide whether or not to have you stay while we go over and vote. Would that be all right with everybody?

Okay.

Dr. HOUSTON. But I want to assure you that I'll remain here as long as possible for a full line of questioning.

Senator LEVIN. Fine. Thank you.

Dr. HOUSTON. I'll just quickly move then to the last page or page and a half of the testimony and I'll talk about the microbial issues.

The issue of microbial control has received much attention in the media lately, and it is an issue that the National Academy of Sciences addressed both in the 1985 study and in the study just released this past Tuesday.

The Academy confirms the need to focus more attention on hidden hazards that cannot be detected through traditional inspection procedures. We feel that the second report responds thoroughly to the issues raised concerning how effective the current inspection procedures are in reducing contamination and, with your permission, we would like to submit a copy of the report for the record.[1]

Senator LEVIN. It will be made part of the record.

Dr. HOUSTON. Despite the recent attention salmonella contamination has received, the issue of microbial contamination is certainly not new. And, in fact, when Senator Stevens was talking about Dr. Daniel Salmon, he goes back to the turn of the century when that organism was isolated and named after him.

Today we know that approximately 3 to 5 percent of beef, 12 percent of raw pork and 35 percent of broilers contain salmonella bacteria. These figures may seem high, but in reality salmonella is difficult to control in raw food.

Scientists from 18 countries who met in 1984 at the International Symposium on Salmonella agreed that all foods of animal origin are potentially contaminated by salmonella and that such contamination levels cannot be expected to change greatly in the near future. In addition, they agreed that the eradication of salmonella in domestic animals is not attainable at this time, except for specific infections.

Even though salmonella receives much of the attention, we know it is not the only microorganism we need to be concerned about. One of the pathogens we are watching most closely is Listeria monocytogenes. Although Listeriosis is rare, it has a 30 percent fatality rate. Although no meat or poultry products have been involved in any reported outbreaks, more than 80 people in California died from an outbreak traced to contaminated cheese.

Our strategy in the area of microbial contamination has been a three-pronged approach that combines research regulation and consumer education. In the area of research salmonella has been our top priority since 1981. We have pursued this research in virtually all phases of livestock and poultry production, slaughter and processing.

In the area of regulation we are developing a proposal that would allow companies to use special labeling if they operate microbiological control programs that use approved techniques to reduce contamination in raw products. Companies would have to identify areas in production and processing where microbial hazards exist and decide where in the system controls need to be applied to prevent food from being contaminated.

Recognizing that the Government and consumers are partners in protection, USDA has had an extensive program to educate consumers about food safety for almost 20 years. In 1986, for example, almost 3 million of the agency's food safety publications were distributed. The agency's Meat and Poultry Hotline was made toll free in 1985 and has responded to about 30,000 inquiries since then.

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[1] See p. 255.

We also educate those who prepare food for large groups, such as hospital and nursing home patients. We are now developing a new, comprehensive educational program for food service workers to improve safe food handling in commercial kitchens.

Mr. Chairman, that concludes my testimony, and Dr. Crawford and I will be happy to answer questions.

Senator LEVIN. Thank you very much, Doctor.

Several European countries have significantly reduced contamination in their meat and poultry products by issuing a tough standard on the bacterial count in animal feed.

I'm wondering whether or not we should imitate that success story?

Dr. HOUSTON. That is certainly a critical control point in the control of salmonella, and it is one of the points that was elaborated on in the academy study which came out Tuesday. The Academy developed a full study of the poultry production processing system and pointed that out as a point that needs better control.

While that does lead to a decrease of course of salmonella in the feed supply, I don't know that it can be totally eliminated. The countries which you are talking about are mostly——

Senator LEVIN. Well, just briefly, are you going to be taking a position on that as an agency and making recommendations?

Dr. HOUSTON. We will be.

Senator LEVIN. When will you be doing that?

Dr. HOUSTON. I'm not sure. It might be as early as June in another round of hearings that will be held.

Senator LEVIN. Would you send to this Subcommittee your recommendation on that when you've arrived at it?

Dr. HOUSTON. Yes. A point I wanted to make here though. I think you are alluding to Sweden and some of the work that has been done there. They have some rather rigid control systems in place over cattle herds and also poultry and they have spent enormous sums of money in indemnifying farmers when they have destroyed herds or when they have destroyed flocks of poultry. So it has been very costly.

But the point I want to make is that I believe Sweden's population, if I recall correctly, is around 8 million people. Yesterday I looked at the reported cases of salmonellosis in Sweden for I think it was fiscal year 1984 or 1985 and it was 2,700 cases. If you take that and project that to the cases here in the United States, it would be more than is reported here in the United States projected on a population basis.

Now I know that there may be different reporting mechanisms. In fact, we looked at the UK, we looked at Canada, we looked at the United States and——

[Dr. Houston confers with staff.]

Dr. HOUSTON. The U.S. had 56,000 reported cases and Sweden had 2,700. If you project that to the U.S. population, it would be 88,000 cases. The UK reported 12,000 cases, and if you project that to the U.S., it would be 60,000 cases using our population as a base. And, finally, Canada reported 9,000 cases, and that would come to

116,000 cases based on that. Now I realize that there may be different reporting systems.

One other thing, Sweden claims that most cases of salmonellosis in their citizens arises from other countries, that they travel out of Sweden and then bring the organism back with them and then they get ill.

Senator **Levin**. Doctor, I believe your agency cut back the inspector work force last year by about 400 or so inspectors and that vacant jobs were left unfilled. I'm wondering if that is true and why they were left unfilled. Is that an OMB directive or what, if in fact that's accurate?

Dr. **Houston**. That is accurate and we changed our inspection procedures and therefore did not need to fill those vacancies.

Senator **Levin**. Was that an OMB directive that authorized that positions not be filled or was that some other reason that you didn't fill them?

Dr. **Houston**. We didn't fill them because we no longer needed them. We changed our inspection procedures and reduced the need for inspectors and therefore we did not need to fill those positions.

Senator **Levin**. So as far as you're concerned, you have enough inspectors?

Dr. **Houston**. Yes, sir.

Senator **Levin**. Now, if you had a choice between using 10 inspectors looking at every single carcass on a line or using those 10 inspectors back in the production line where there is a problem plan, for instance, observing the washing process, testing the feed and examining the overall handling of the product from start to finish, which would be preferable? How would you use those 10 inspectors if you really had a choice, carcass by carcass or look for the problem areas and take those 10 inspectors and do a more qualitative job on the processing issue?

Dr. **Houston**. Well, what you just described, the latter point, is exactly what the National Academy is recommending.

Senator **Levin**. But what would you do?

Dr. **Houston**. That is what I would do, too. May I read something out of——

Senator **Levin**. No, because I'm going to run out of time I'm afraid, and we will probably have to have you stay over. So then you could read that on my second round, but I just have one more minute, and we're going to divide this time three ways before we recess.

How many inspectors do you have working in the processing plants right now roughly?

Dr. **Houston**. Eight thousand.

Senator **Levin**. And of those 7,000 inspectors that are on the lines, how many of them are doing the visual inspection carcass by carcass by carcass and how many of them are doing the qualitative look into the process issue?

Dr. **Houston**. Well, we have about 2,000 that are further processing inspectors, and the other 5,000 to 6,000 are on the slaughter lines, both the red meat and poultry.

Senator **Levin**. Thank you.

Senator Cohen.

Senator **Cohen**. Dr. Houston, you've indicated you've got enough inspectors. Are you taking into account the so-called third generation system of line speeds?

Dr. **Houston**. Oh, that is not operational yet. That's still in a pilot test.

Senator **Cohen**. Assuming that becomes a reality, I'm told that that would be about 180 birds a minute, about three birds every second. Do you think any human being can do effective job looking at three birds a second?

Dr. **Houston**. First of all, I think we need to point out what the Academy says, and that is that the bird-by-bird inspection is offering no public health significance.

Senator **Cohen**. When why have it?

Dr. **Houston**. That's a good question. I've been asking that question for the last five years and I've been trying to change the system. It's why I asked for the National Academy report and that's why the National Academy has concluded that we ought to do away with bird-by-bird inspection and go to an improved system.

Senator **Cohen**. Let's stop there. So your recommendation is that we abolish all inspectors?

Dr. **Houston**. No.

Senator **Cohen**. Why have any?

Dr. **Houston**. Because there are a number of diversions that we can make to improve the quality of our food supply and do away with this current bird-by-bird that has no public health significance.

What we need to do is to use those resources to improve our control over residues and to improve our control over microbiological hazards. You can't see residues and you can't see salmonella.

Senator **Cohen**. I understand that. Why have inspectors on the line that might have to inspect three birds a second? Does it make any sense?

Dr. **Houston**. Yes.

Senator **Cohen**. Why?

Dr. **Houston**. Because what we need to do is take the esthetic defects, which is what we are now removing, and put that responsibility on the plant. We are talking about broken wings, we are talking about bruises and we are talking about some diseases that have no human health significance, but those are important and we need to remove those defects from the poultry supply. Our inspectors through a sampling program, can be sure that that is done.

Senator **Cohen**. And they can handle that at three birds a second?

Dr. **Houston**. As far as I'm concerned, we don't even need to do that. If we have a good intensive sampling program, as the National Academy has recommended, we don't even need inspectors on a line.

Senator **Cohen**. Well, that's what I asked you before. So we don't need any inspectors on the line. And if Gramm-Rudman-Hollings is adhered to again this year, then one of your recommendations would be to eliminate those on-the-line inspectors.

Dr. **Houston**. I can't do it because the law says we have to have every bird inspected.

Senator Cohen. That's not what I'm asking. I'm asking for your recommendation. What is your recommendation?

Dr. Houston. My personal recommendation is going to be when we come forth at the next hearing is that Congress initiate the action to do away with bird-by-bird inspections so we can follow the Academy's recommendations.

Senator Cohen. So we don't need to have any inspectors look for those esthetic defects that you talked about, the bruises, the broken wings and whatever?

Dr. Houston. I think that should be the responsibility of the industry. The Government has been paying for that for a number of years and we don't need to continue to do it.

Senator Cohen. Didn't the Academy of sciences talk about a combination of inspection as well as new techniques?

Dr. Houston. It called for a—let me read what it said. I think the best——

Senator Cohen. Let me read to you what it says.

Dr. Houston. Okay.

Senator Cohen. It says "Rather than focusing on one procedure, such as bird-by-bird inspection as the primary component in an inspection process, FSIS should direct its efforts toward the establishment of a comprehensive quality assurance program. Such a program would consist of several components, one of which might be"—and I'll let you——

Dr. Houston. Organoleptic.

Senator Cohen [continuing]. "Organoleptic inspection," and I assume that means visual.

Dr. Houston. Yes, but it doesn't say who should do it. It doesn't say that the Government should do it.

Senator Cohen. And what you want to do is just let industry do it.

Dr. Houston. I say industry should do it and we should hold the industry accountable through an intensive sampling program. If you would look on——

Senator Cohen. Well, we'll come back to that on my second line.

The Academy of Sciences also indicates there is no coordinated system of consumer education. Senator Pryor talked about the need for consumer education and I agree. There is no doubt about it. We don't need the same level of consumer education for a Maine lobster. If you don't get a live Maine lobster, then you don't eat it. But in terms of either poultry or meat or pork, we've got some consumer education to do.

The Academy of Sciences indicated that you don't have a really comprehensive or coordinated program. What is your response to that?

Dr. Houston. Well, I can tell you that we do spend close to a million dollars a year in consumer education through public service announcements, through food safety information being given to the public, and we operate a Hot Line. Certainly we could do a great deal more, Senator, and I would agree with that. It's a matter of money.

Senator Cohen. So you would take the money from the inspectors and put it on the consumer information?

Dr. Houston. That's one possibility.

Senator COHEN. Is that what you're going to recommend?

Dr. HOUSTON. I'm not prepared to say that at this point.

Senator COHEN. Okay. Now the Academy of Sciences indicated or they recommended that the FSIS urge or require manufacturers to tag all ready to cook poultry products telling the consumer to prepare the poultry adequately so as to avoid illness. Do you agree with that?

Dr. HOUSTON. Yes. I think the industry should do more in the effort of consumer education and that there are a number of opportunities for them to provide that information at the point of sale.

Senator COHEN. What about whistleblowers? There is a complaint that about 50 percent of the Federal inspectors who have been surveyed by the union have indicated that they fear retaliation on the part of their superiors if they were to blow the whistle on inadequate inspection or lax enforcement or any complaints that they might file.

Are you concerned that as many as 50 percent of those inspectors feel that they would be retaliated against?

Dr. HOUSTON. Well, as you pointed out, that is union generated data and we are——

Senator COHEN. Is it tainted as a result of being union generated?

Dr. HOUSTON. I think so, yes, and let me explain why. We are trying to move this program to a more scientific based effort. We are bringing more science into it, and its controversial because we are looking at 8,000 jobs potentially affected by this.

Now we have made commitments to our inspectors that as we make these changes everyone's career is going to be protected. There may be some modifications in work and how they will be used, but it is threatening.

For example, last year we introduced for the first time the hiring of food technologists into the program. This is very threatening to our work force because they see these new, better trained people blocking their career patterns and, you know, that's understandable.

Senator COHEN. My time has expired.

Senator LEVIN. Thank you.

Senator Pryor.

Senator PRYOR. Are we in the last part of the roll call?

Senator LEVIN. No, we're still in the first part.

Senator PRYOR. Well, I may not take my full five minutes.

Dr. Houston, do you and Mrs. Houston eat chicken?

Dr. HOUSTON. Every week.

Senator PRYOR. When you sit down at the table and start to carve up that chicken do you say, "Oh, my goodness, dear, I hope we don't get salmonella?"

Dr. HOUSTON. No, it's not of a concern to me.

Senator PRYOR. You don't have a fear of it?

Dr. HOUSTON. No, sir.

Senator PRYOR. Why?

Dr. HOUSTON. Well, first of all, we've never experienced it and my wife knows how to handle food properly and she practices good food hygiene habits in the kitchen and it has simply never been a problem in any food as a matter of fact.

Senator PRYOR. Are you familiar with The Public Voice For Food and Health Policy?

Dr. HOUSTON. Yes, sir.

Senator PRYOR. That's an organization located in Washington?

Dr. HOUSTON. Yes, sir, a public interest group.

Senator PRYOR. They recently put out a fact sheet that says seafood is the only commercially produced flesh food in the United States not subject to mandatory Federal inspection for wholesomeness. Are you responsible for seafood inspection?

Dr. HOUSTON. No, sir. The responsibility for seafood rests with the Food and Drug Administration as part of their responsibility, but there is a limited voluntary inspection program mostly for canned seafood that is operated by the Department of Commerce.

Senator PRYOR. But you're not responsible for that?

Dr. HOUSTON. No, sir.

Senator PRYOR. According to the Public Voice, citing the Center for Disease Control, it's estimated that millions of people become ill from food related illnesses yearly. In 1982, for example, 24 percent of the outbreaks of food-related illnesses due to harmful agents in food involved seafood.

In all of your years of inspection, what is the most dangerous of all the food that we can eat which might cause us to have salmonella? What are we most vulnerable to?

Dr. HOUSTON. What class of foods?

Senator PRYOR. Yes.

Dr. HOUSTON. Well, with regard to salmonella, about a third will come from meat and poultry products and about a third from dairy products and a third from others, including fish and water.

In the last several years though probably the most serious food poisoning outbreak that this country has faced has been with dairy products. We had an outbreak in Chicago where we had 16,000 cases of salmonellosis, which is the largest food poisoning outbreak in the history of the United States. I don't know what the mortality rate was there. I don't have that figure. But that's a huge outbreak.

Then we've recently had, as I mentioned in my testimony, problems with Listeria monocytogenes that creates a disease called Listerosis. There was an outbreak several years ago in Nova Scotia in which cole slaw was implicated. The cole slaw came from cabbage grown in a field that had been fertilized with sheep manure and the Listeria came from that source.

We later then had an outbreak in pasteurized milk in Massachusetts.

Then of course we had the outbreak in California in which we had somewhere between 80 and 100 deaths, and that was Mexican style soft cheese. Most of those deaths, by the way, were newborns.

Then, we've an outbreak right now in Philadelphia of Listeriosis, I think somewhere between 30 and 35 cases with about 11 deaths so far.

The Food and Drug Administration and the Center for Disease Control have not yet been able to determine the cause of that outbreak in Philadelphia and it still remains a mystery.

I might add that with respect to meat and poultry and salmonella, right now we see in outbreaks a ratio of about 1.5 to 1 with beef over poultry. So most outbreaks, while they are fairly even, most of them will come from beef rather than chicken.

Senator PRYOR. So salmonella is not just one isolated problem with one isolated type of food, but it's everywhere; is that correct?

Dr. HOUSTON. Well, it's all foods of animal origin and those that become contaminated, even foods of vegetable origin can be a problem, plus you've many other food poisoning organisms besides salmonella. You've obviously heard of botulism and you've heard of staphlococcus.

Senator PRYOR. What is Listeria?

Dr. HOUSTON. Listeria monocytogenes is the name of the organism.

Senator PRYOR. Is it in cheese? I know some cheese was recalled the other day.

Dr. HOUSTON. Right. The FDA has been testing cheese and imported cheese in particular because it's been found in cheese coming in from France.

Senator PRYOR. Mr. Chairman, I think we do have to go vote. I would like to ask unanimous consent to put the fact sheet published by the Public Voice in the record at the appropriate point.[1]

Senator LEVIN. We will do that.

We will ask you to stay, if you don't mind, Doctor, and we will recess for 10 minutes.

[Recess.]

Senator LEVIN. We will be back in order.

Doctor, we've all asked you some questions I believe about the subject of the carcass-by-carcass inspection which most of our inspectors are now engaged in which only picks up the visual problems which is not the major source of health problems.

Between continuing to do that or, instead, using our resources for more in-depth kinds of inspection and investigation and looking into process problems, you have said that you preferred to use your people more in the latter role than in the former, and that you would have a visual inspection only on a sample basis.

Now when I asked you how many people we had working on the lines I think you said 5,000 to 6,000 out of our roughly 8,000. Are those the number of people, that 5,000 to 6,000, who are doing the visual inspection on the lines?

Dr. HOUSTON. Yes, sir.

Senator LEVIN. So that you would take a substantial number or percentage of that 5,000 to 6,000 and transfer them over to this other function if you had your way?

Dr. HOUSTON. Well, first, I would limit it to poultry to begin with because that's where we have most of our information. I'm not talking now about red meat or livestock. I see some streamlining there, but not substantial changes.

Senator LEVIN. All right. Let's just take poultry then. About how many of that 5,000 to 6,000 might be working on the poultry lines?

Dr. HOUSTON. Two thousand.

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[1] See p. 549.

Senator LEVIN. And of that what percentage do you think you would move to this more in-depth investigatory function away from the visual, every bird kind of a look?

Dr. HOUSTON. Well, I would have to give you just some ball park estimates.

Senator LEVIN. A ball park.

Dr. HOUSTON. We might need a half to three-fourths of those people.

Senator LEVIN. That you would switch.

Dr. HOUSTON. Yes.

Senator LEVIN. And in order to do that, in other words, you would take perhaps 1,000 or 1,500 of the roughly 2,000 who are engaged in poultry inspection and move them to this other kind of function which you think would do a lot more in terms of bacteria, salmonella, et cetera; is that right?

Dr. HOUSTON. Yes, sir.

Senator LEVIN. In order to do that, though, you would require a change in law; is that correct?

Dr. HOUSTON. Yes, sir.

Senator LEVIN. And you have not yet recommended that change, do I understand, but you might after your next hearing; is that correct?

Dr. HOUSTON. Yes, sir. The report just came out on Tuesday and we obviously have to consult with the Secretary of Agriculture who has to consult with OMB and the White House and do all of the things that are necessary before we can come up here with an official Administration position.

Senator LEVIN. Would the same people who are presently doing the bird-by-bird inspection—because in this case we are only talking about poultry—would those people be qualified or would you use those same people for this other function?

Dr. HOUSTON. Yes, sir.

Senator LEVIN. Okay. And, again, just so we can describe the function clearly, at least as I understand what we're talking about, we are saying that, again, instead of this visual inspection of three birds a second or whatever it is coming down that line and just going like this, or going like this, as quick as they can—looking for a broken wing or bruise, instead, those 1,000 to 1,500 people, that half to three-quarters of your poultry inspectors would be going behind the production line and observing washing processes, for instance, testing the feed, for instance, examining the overall handling of the poultry from start to finish, for instance; is that right?

Dr. HOUSTON. That's part of it, but the principle———

Senator LEVIN. What beyond that?

Dr. HOUSTON. Well, principally they would be used to draw samples off of that line and to make intensive inspections of samples of birds. Instead of looking at them for just a few seconds as they do now, they would be able to develop much better information about the population of birds going through that plant through a sampling procedure as opposed to what we do now.

Senator LEVIN. Now would they be taking samples at places where they have reason to suspect there is a problem or just random samples or both?

Dr. HOUSTON. They would be random samples.

Senator LEVIN. One more question on that. Where they do take those samples, under our current process it takes a couple of days I gather to really do the test to determine whether or not there is salmonella or other bacteria or chemical residues or what-have-you in meat or poultry. Are we now working on a faster process to give us answers to tests?

Dr. HOUSTON. Right. Research is underway both in the area of chemical residues and microbiological hazards, but I must tell you the technology is not available today to make an immediate determination on the presence of salmonella. We do have some in-plant tests that are now available for residue detection. They still take 12 to 18 hours in order to make a determination, but work is underway.

Senator LEVIN. Could you give us a guesstimate as to when you think the technology might be available to do the salmonella testing on the spot, say within a matter of a few minutes?

Dr. HOUSTON. That's a matter of years and I can't tell you.

Senator LEVIN. So we are not on the verge of a breakthrough in that kind of equipment as far as you know?

[Dr. Houston confers with Dr. Crawford.]

Dr. HOUSTON. Dr. Crawford advises me there is a great deal of research not only here but in Europe, but it's hard for us to say when that breakthrough might come.

Senator LEVIN. As far as you know we're not on the verge of it, and if we are, you don't know about it.

Dr. HOUSTON. I'm not aware of it.

Senator LEVIN. Okay. Now just for the sake of consumers who might be watching or listening or read what we're talking about here, would you go through the precautionary steps which they should take relative to the preparation and cooking of meat and poultry.

Dr. HOUSTON. First of all, as Senator Pryor mentioned a while ago, poultry should be thoroughly cooked and one should wash their hands between handling raw product and cooked product. Once product is cooked it should not be placed back on a platter which has raw juices on it. Leftovers from a meal should be promptly refrigerated. Cutting boards and other utensils should be washed between different uses. In most cases it's just a common sense approach that will usually correct the problem.

Senator LEVIN. Thank you, Doctor.

Senator Cohen.

Senator COHEN. Dr. Houston, in the 132 meat and poultry plants reviewed by the Inspector General last year some 2,000 sanitation and chemical deficiencies were cited. What follow-up did FSIS make to ensure that those deficiencies were corrected?

Dr. HOUSTON. We do have inspectors, inspectors-in-charge and circuit supervisors who are every day looking at plants, and I might say that there is not a day that goes by that hundreds of deficiencies aren't noted and corrected. That occurs every day in the 7,000 plants.

Senator COHEN. And you did take follow-up steps to correct those deficiencies?

Dr. HOUSTON. Those are taken right by the inspectors at the plant level.

Senator COHEN. I mean do you have a record of it?

Dr. HOUSTON. Every plant has a sanitation report that is filed every day, but those are maintained at the plant level.

Senator COHEN. Well, the GAO, and they will be testifying momentarily, has made a preliminary finding that FSIS doesn't adequately track plant performance. Are you aware of that?

Dr. HOUSTON. Well, I've seen their testimony. I don't know that they have made a finding yet. They've only gotten into this review for just a few months or a few weeks.

Senator COHEN. You can say preliminary findings.

Dr. HOUSTON. Preliminary findings. I would emphasize that this is a highly decentralized program because of the fact that it is an in-plant inspection program where a great deal of authority is delegated to the inspector in charge in that plant; the authority to destroy another person's product with no recourse, the authority to shut down a plant or a part of a plant; the authority to slow down lines, the authority to retain product. Those kinds of actions go on every day in the thousands of meat and poultry plants.

We have to delegate that authority. If we don't, then no action can be taken and operations would be——

Senator COHEN. What I'm asking you is is there an adequate record in dealing with that kind of enforcement recorded for your oversight?

Dr. HOUSTON. Each day there is a sanitation report carried out and is a matter of record at the plant level. So it is maintained there. The answer to your question is yes.

Senator COHEN. And we would have that available to review?

Dr. HOUSTON. Certainly.

Senator COHEN. In last year's Inspector General's report they recommended a sliding scale of fines be instituted by FSIS to provide financial disincentives for repeated willful violations at the so-called medium level. So you support that?

Dr. HOUSTON. That was a recommendation that came forward in the Carter Administration, and when Secretary Block became the Secretary of Agriculture he reviewed that position and did not adopt it. It is the policy of this Administration not to support that sliding scale of civil penalties.

Senator COHEN. Why not?

Dr. HOUSTON. I believe that there is already enough authority in place for the inspection service at this point. In addition, the Administration asked for increased authority when the Processed Products Inspection Improvement Act was passed, and that authority was provided.

Senator COHEN. But that doesn't answer my question. What's wrong with having a sliding scale for those who are more egregious in their conduct and for those who have a superlative record? Why not have the kind of flexibility to have a real disincentive for those who are the most constant violators? I don't understand why the Administration or you would be opposed to that?

Dr. HOUSTON. Well, we believe there is enough authority there already and that——

Senator COHEN. You're saying they have the authority now to have a sliding scale?

Dr. **HOUSTON**. No, we have enough authority to take regulatory action.

Senator **COHEN**. The question is what kind of regulatory action would serve as an adequate disincentive for those who are the most frequent violators?

Dr. **HOUSTON**. Well, they have to every day face up to regulatory action on the part of inspectors if they are found not complying with regulations, such as I——

Senator **COHEN**. But we have procedures for almost every other facet. If you have somebody who is a repeat offender, you treat them somewhat differently than you would for the first time offender. What's wrong with that?

Dr. **HOUSTON**. Well, as I mentioned, we have authority to prosecute people. We had 33 prosecutions last year. Every day inspectors are stopping operations or retaining product. There is a tremendous amount of authority in the Federal Meat Inspection Act and Poultry Products——

Senator **COHEN**. Well, it's clear to me you don't want to answer the question. I'm asking you the rationale of what is wrong from your perspective with having a sliding scale for having some flexibility to have more penalties imposed on those who are more frequent violators. I don't understand the rationale for your opposition.

Dr. **HOUSTON**. It's not necessary.

Senator **COHEN**. That's all I have.

Senator **LEVIN**. Thank you very much.

Senator Pryor.

Senator **PRYOR**. Dr. Houston, I think for the record it would be well if you would in a paragraph or so state your credentials. I know you are a doctor, but I would like, if you would, for you to state your credentials, and also Dr. Crawford's. I think that would be well stated at this point for the record.

Dr. **HOUSTON**. Well, I'm a 1959 graduate of the College of Veterinary Medicine at the University of Illinois, and I have spent my entire professional career in food hygiene. I came to work for the Department of Agriculture in 1961 as an in-plant inspector, and since that time I have maintained employment with the program. I have worked in a number of field locations and here in Washington, and have been the Administrator for the past 8 or 9 years.

Senator **PRYOR**. And what about Dr. Crawford, if he would state his credentials.

Dr. **CRAWFORD**. I graduated from the Auburn University School of Veterinary Medicine in 1963 with a Doctor of Veterinary Medicine, and I graduated from the University of Georgia with a Ph.D. in pharmacology in 1969. I was in poultry inspection as a trainee in college. After that I worked in research with American Cyanamide Company. I taught veterinary medicine for 16 years at the University of Georgia. I was Director of the Center for Veterinary Medicine in the Food and Drug Administration for five years, and have been at FSIS for the past year and a half.

Senator **PRYOR**. Thank you.

Dr. Houston, I would like to look at just all food production and inspection just for a moment. Would you explain the difference in the type of inspection that USDA or your operation gives to beef and poultry and the type of inspection given to other food products by the Food and Drug Administration or other inspection services.

Dr. **Houston**. Well, maybe we could take a food as an example and answer that question. Let's take soup and talk about our friends at Campbell Soup.

They make vegetable soup, as you know, and thousands of cans a day come down the line and that is subject to FDA jurisdiction. FDA, as you mentioned a while ago, has about 400 staff years devoted to 60,000 food plants in this country. They may go into Campbell Soup once a year or once every two years or once every three years. They may show up at the plant and make a sanitation review and generally look at what's going on.

If Campbell decides to put a one-ounce piece of beef in that vegetable soup——

Senator **Pryor**. And make it beef vegetable or chicken vegetable——

Dr. **Houston**. It now becomes vegetable and beef soup. It's still got more vegetables than beef, but it's——

Senator **Pryor**. But then you assume jurisdiction.

Dr. **Houston**. Then we assume jurisdiction. The first thing they have to do is have their blueprints approved before they can operate under USDA inspection and get a license to operate from the Department of Agriculture. They must have all their labels approved. They will have an inspector there every day to check on the formulation, to check on labeling and so forth.

We can take another example of a cheese pizza. If you want to open up a pizza plant you can do it. You may have some local requirements to follow and you may see the FDA every three or four years or whatever. But if you want to put pepperoni on it, you've got to come to us and get a license and follow all of our regulations and be inspected.

As you can see, there is quite a diverse food safety policy in the United States. Meat and poultry industries are regulated. It's the zenith of regulation, if you will, and we have very, very diverse policies in this country on how we regulate various foods.

Senator **Pryor**. How many inspectors does the Food and Drug Administration have?

Dr. **Houston**. I talked to them last week. Their total budget for food safety is $107 million.

Senator **Pryor**. And your budget is what?

Dr. **Houston**. Almost $400 million. And they have about 400 staff years devoted to food, but they have large numbers of person-years devoted to drug regulation.

Senator **Pryor**. Senator Levin asked just a moment ago about the bird-by-bird inspection system, I believe——

Senator **Levin**. Relative to those thousand that he said he would like to move in the poultry industry to the systemic.

Senator **Pryor**. Right. Now the National Academy report spent quite a bit of time in this report discussing this particular concept——

Dr. **Houston**. Yes, sir.

Senator **Pryor** [continuing]. Versus, as they say, a better concept. What was their finding? You were attempting, I think, a moment ago to read from that report, and if you would like to, feel free to.

Dr. HOUSTON. Well, there was one paragraph. It says "If substantial public resources are to continue to be dedicated to bird-by-bird poultry inspection as it is currently conducted, even under the most streamlined circumstances, it is important for the Food Safety and Inspection Service to demonstrate the associated public health benefits, if any, as soon as possible. If esthetic improvements are the only benefits derived from the present system, the committee believes there is no justification for continuing the government's intense involvement."

The Academy did review, I might say, a number of hazards associated with poultry and concluded that the bird-by-bird program is not eliminating those hazards and we should divert those resources elsewhere.

Senator PRYOR. The naked eye cannot see or depict salmonella; is this correct?

Dr. HOUSTON. That's right.

Senator PRYOR. Would more inspectors, say if an increase from 7,000 or 8,000 now to 50,000 help to eradicate salmonella?

Dr. HOUSTON. No, sir, not under the present system, not under the visual inspection. We've got to be able to inspect smarter.

Senator PRYOR. Smarter?

Dr. HOUSTON. We've got to be able to inspect smarter than what we are now. We've got to use more science and more technology.

Senator PRYOR. Now I believe it was you, if I'm not mistaken, who requested the National Academy to do a study on this whole system; is this correct?

Dr. HOUSTON. Yes, sir. In fact, back in 1985 I requested a study to be made and from that study flowed this last study which again we asked for. The changes, Senator, that we have contemplated and we've talked about over the last 10 years are controversial, but they are based on science, and that's why we went to the National Academy to have them judge what we're doing and to come back to us with recommendations.

I might add that my initial reading of the report is that I'm very pleased with it. I think it supports the direction we're taking and gives us very good recommendations on how to continue.

Senator PRYOR. Let's talk just a minute about beef and poultry and how you inspect, or how your inspectors inspect for beef vis-a-vis poultry. Would you describe that process?

Dr. HOUSTON. Well, in the situation with beef more attention is given——

Senator PRYOR. I would like to limit this question to salmonella if we could.

Dr. HOUSTON. There is really very little difference at this point. We are still mostly a visual, organoleptic inspection program. Now we do have very intensive regulatory schemes in place for ready-to-eat products, products that are cooked and have to be either reheated or eaten as such in the home. An example is rare roast beef that you might see in a deli. For a number of years this was a significant source of human salmonellosis because contaminated products were going into delis and then being temperature abused, and salmonella would grow and create disease.

That has been solved by having, as I mentioned, rigid time/temperature regulations in place and these products are cooked now so that problem is solved.

Senator **Pryor**. Dr. Houston, excuse me. I may have not phrased that question well. In the plant the inspectors inspect for salmonella in beef one way, I understand, and for poultry in another way. For example, how is a chicken inspected. I thought they put them in a bag of water or a bag of chemicals or something like that and then sample the fluid. Would you describe that process?

Dr. **Houston**. In addition to the visual examination?

Senator **Pryor**. Yes.

Dr. **Houston**. Well, many poultry companies do have programs in place where they pretest birds, for example, to be sure that no chemical residues are in them. They pretest feeds, and we have cooperative agreements with those companies that share information with us. So that if they find anything we can take action ahead of time. The poultry industry is far ahead in that regard, much further ahead than the red meat industry.

Senator **Pryor**. The poultry industry is ahead in this regard?

Dr. **Houston**. Yes. The poultry industry has done a very good job in eliminating residues. By virtue of some problems they had in the 70's, they did put a number of controls into place, and this is spoken to in the Academy report as well.

Senator **Pryor**. I wonder if Dr. Crawford is going to be able to stay if you have to leave. Will he have to be involved in the same ceremony you are in?

Dr. **Houston**. No. He can certainly stay.

Senator **Pryor**. You've just been appointed to stay. [Laughter.]

Not to stay as a witness, but to stay if we may have to ask a technical question after a while.

Senator **Levin**. And we will keep the record open also for questions of Dr. Houston.

Senator **Cohen**. Save a piece of the cake for him.

Dr. **Houston**. I will.

Senator **Pryor**. Well, Mr. Chairman, I have a lot of questions, but I can sense that you're ready to move on. [Laughter.]

All I'm trying to do is just get the truth out. I'm just searching for the truth.

Senator **Levin**. You're doing a good job.

Dr. Crawford will be here in case there is a technical question which comes up later and we always can ask him.

So thank you very much, Dr. Houston.

Dr. **Houston**. Thank you.

Senator **Levin**. Our second witness today is Brian Usilaner, the Associate Director of the General Government Division of the General Accounting Office [GAO].

At the request of the Subcommittee this division of the GAO has been reviewing the productivity of the FSIS inspection program.

Mr. Usilaner, we welcome you. Am I pronouncing your name correctly?

Mr. **Usilaner**. Yes, sir.

Senator **Levin**. Perhaps you could introduce your associates.

## TESTIMONY OF BRIAN L. USILANER, ASSOCIATE DIRECTOR, NATIONAL PRODUCTIVITY GROUP, GENERAL GOVERNMENT DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY CLIFTON E. SPRUILL AND CONNIE SAWYER, EVALUATORS, NORFOLK REGIONAL OFFICE, GAO

Mr. USILANER. Yes, I will.

As you said, my name is Brian Usilaner with the National Productivity Group of the General Government Division. And with me at the witness table is Clifton Spruill and Connie Sawyer. They are with our Norfolk Regional Office and they head up our field work on this particular assignment.

With your permission, I would like to read a summary statement that sort of summarizes our work to date.

Senator LEVIN. Your entire statement will be made part of the record, and we do appreciate your summarizing it.[1]

Mr. USILANER. Thank you.

We are pleased to appear today at your request to discuss preliminary results of our review requested by Senator Cohen on productivity and quality management in inspection functions of the Federal Government.

As requested, we began our review in the Department of Agriculture's Food, Safety and Inspection Service. The review is being conducted for the Subcommittee in order to assist in its oversight of management of inspection activities across the Federal Government. Overall over 40 Federal agencies perform inspections and about 76,000 Federal employees are involved.

As requested, the Department of Agriculture was selected as the starting point for our examinations. FSIS had the greatest number of inspectors within Agriculture. This first phase of our work has primarily involved poultry inspections.

For the purposes of our review we considered quality management to mean assessing first how well inspectors are performing their work and, second, how well the facility's products and work force at each plant are conforming to requirements of law and regulations

Our review is in the early stages and our observations are at this point preliminary. We believe, however, that FSIS may need to improve its data on measures of plant quality and inspector performance.

With regard to plant quality, the indications are that the agency does not have objective, systematic measures of quality on a plant-by-plant basis that would permit an objective assessment of quality among various plants or an assessment of plant's quality over time.

Regarding quality of inspector performance, preliminary work has shown that the agency does not have the objective information to assure the quality of an inspector's performance or to assess how well inspectors are following procedures.

The agency is experimenting with various changes to its inspection procedures. We are concerned that the apparent absence of objective data could impair the agency's ability to assess the benefits of these changes.

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[1] See p. 102.

I would now like to discuss changing inspection policies and procedures, our preliminary observations and why we believe objective quality data on plants and inspectors are important.

Concerning inspection policies and procedures, the law requires inspection of each poultry carcass. These inspections are intended to ensure that the Nation's supply of poultry is safe for human consumption.

To achieve that end, as we have already talked about, FSIS inspectors visually inspect each bird slaughtered for consumption. Also, the inspectors inspect the slaughter and processing facilities. The agency is continuing to explore new ways to satisfy itself about product safety.

In 1983 the agency asked the National Academy of Sciences to assess its inspection program and recommend improvements. In an 1985 report the Academy recommended an optimal inspection system that would include random sampling and rapid, inexpensive screening tests to detect chemical compounds and biological agents.

The Academy also recommended that new approaches not be implemented nationally until validated by objective assessments of their impact. A follow-up report just issued provides a model a for risk assessment approach to poultry inspection.

The primary reasons for considering changes in inspection procedures are, one, increasing concern that the current look-at-every-bird approach is not adequate and, two, a shrinking work force that must inspect a growing number of slaughtered birds.

In addition to considering changes in slaughter inspection, the agency is also experimenting with changes in the inspection or processing operations in which the plant becomes more and more involved in quality assurance and the inspector monitors the plant's quality control system.

The desire to move from detection of problems to an approach aimed at preventing problems is quite in line with quality assurance techniques now being applied in the private sector which involve sampling of critical stages of production, statistical quality control techniques and strong participation by employees.

However, it is important to point out that such an approach requires adequate data on slaughter and processing quality and appropriate analysis of such data. Any conclusions drawn from the data are only as good as the correctness, availability and accessibility of the data.

In these new inspection procedures it is particularly important for the agency to have a means to measure the quality of the plants being inspected at key points and the quality of the work performed by inspectors.

I would now like to discuss this issue of measurement in more detail. Let me tell you what we know about the collection and use of data on plant quality levels.

First, a 1981 GAO report identified weaknesses in the collection and analysis of management data. We reported that inspection program supervisors at times did not adequately document the results of their monthly reviews.

Next, the 1985 Academy report said that there was no comprehensive statement of criteria, no systematic accumulation of data and no technical analysis of the hazards or benefits to human health in the traditional inspection program or as a consequence of new inspection techniques.

Also, a September 1986 Agriculture IG report that Senator Cohen mentioned indicated the agency did not have adequate controls over data collection and analysis. We don't know the extent that these problems still persist since our work is in the preliminary stages.

Officials told us that the agency has requirements for the collection of various data that relate to quality. However, the desired amount of documented information is not consistently collected or analyzed.

An FSIS Future Agenda report responding to the 1985 Academy recommendations states, and I quote "In the past large amounts of data were collected for statistical purposes to report to Congress on the scope of operations. Data were not used for analytical purposes, for evaluating program effectiveness or for improving the day-to-day quality of inspection in the plant."

Concerning measures of quality on a plant-by-plant basis, we were told FSIS does have a great deal of data which are entered into a central computer system. Reports generated are more focused on output quantities and condemnations than on the quality of the facilities and work force.

Regarding the quality of an inspector's work, preliminary indications are that the agency does not have the information needed to objectively make assessments. We met with the Administrator, Dr. Houston, who acknowledged that his agency does not objectively track the quality of the work performed by individual inspectors. It is presently using subjective ratings to evaluate inspector performance. In fact, at one plant we visited the inspector in charge told us that the most difficult phase of his job was to rate inspector performance.

Turning to the productivity issue, the President in February of 1986 established a productivity improvement program for the Federal Government. The implementing instruction required a description of how the agency will measure quality, timeliness and efficiency and also required that baseline data be established for each.

As one of the improvement initiatives Agriculture submitted to OMB recent productivity changes in meat and poultry inspection activities. We noted, however, that the submission did not include measures of quality or plans to develop such measures. Without quality measures you cannot determine whether productivity is being improved at the expense of quality.

In closing it appears that there is a critical need for objective performance measures to evaluate the effectiveness of the inspection work force and for objective systematic measures of quality on a plant-by- plant basis in order to assess the relative benefits of changes to the present inspection procedures.

Based on these observations, we plan to pursue the following matters during our continuing review:

Can FSIS objectively determine whether inspector quality is increasing or decreasing?

Is management monitoring and emphasizing inspector quality?

What factors affect inspector quality performance?

How can inspector quality be improved?

How can plant quality reporting be improved?

And, finally, has the agency properly assessed the impact of productivity increases on quality?

We also plan to determine the impact of quality assurance techniques and the impact of changing the focus from detection to prevention.

We believe our work will be helpful in enabling us to identify issues for further examination when we begin our reviews of meat inspection and inspection activities in other Federal agencies.

This concludes my statement, Mr. Chairman, and we would be pleased to respond to any questions of the Subcommittee.

Senator LEVIN. Thank you, Mr. Usilaner.

You indicated that the FSIS does not have a systematic evaluation of plants on a plant-by-plant basis. Now does that mean, in your opinion, that the FSIS would not be able to tell us the compliance status of any particular company during last year say?

Mr. USILANER. We have to this date not been able to document any trend type data that's being collected and being transferred down to the operating levels. There is data, as I said, on condemnations and there is some other data such as ratings and so on, but our concern is for objective analysis on a continuing basis.

Senator LEVIN. Now won't the FSIS have to have that information in order to permit some plants to do their own inspections under a discretionary inspection program?

Mr. USILANER. Yes.

Senator LEVIN. So the information that they don't have they'll need?

Mr. USILANER. Yes. There are two parts. There is the slaughter operation and then the processing operation. Where they have this discretionary inspection in the processing operations, they have more documentation but in the slaughter operations they don't have discretionary inspection and, they do not have adequate data, or at least we haven't been able to identify it at this point.

Our concern, as was brought out in the Academy report, was that you're going to be getting a lot of questions as you move away from bird-by-bird inspection, and to assure the public advocate groups, and inspectors that there is no detriment to quality, you're going to need this objective data analysis.

Senator LEVIN. Now as I understand it, there is a discretionary test program going on in some State where 14 plants are participating.

Mr. SAWYER. Yes, that's going on in the State of Tennessee.

Senator LEVIN. Yes. Now wouldn't the information which is not available be necessary in order to permit that program to proceed in a proper way?

Mr. SAWYER. Sir, what we've been told is that this discretionary inspection will apply to the processing plant and it will be at the plants in which the agency has a concept called total quality control, and under this concept they have more documented information than they would in a slaughter operation.

Senator LEVIN. Have you looked at that documentation to see if it's adequate for this purpose?

Mr. SAWYER. Not in detail.

Senator LEVIN. You might want to do that.

Now you've also stated that the FSIS does not have objective information to assure the quality of inspectors 'performance. How do supervisors evaluate the performance of people that they supervise without that information?

Mr. USILANER. It's a subjective rating. It means that there are subjective statements and you relate those statements to the performance of the inspector. I interviewed one inspector-in-charge who does this rating and the difficulty he has is in using a five-point scale to differentiate between say a 3 or a 4. It's very subjective.

Senator LEVIN. And what should the objective performance standards be?

Mr. USILANER. Well, some type of objective measure, such as maybe taking a sample of birds that are being inspected by each one of the inspectors and re-inspections them on a random sample basis.

Senator LEVIN. Back in 1981 GAO identified some weaknesses in the FSIS collection and analysis of management data. Were you able to ascertain after that report was issued what the FSIS did to improve their system in response to your report?

Mr. USILANER. At this point we have not gone back to that, but I read you what the future agenda report said and also the Inspector General's report documented some weaknesses in the collection of data.

Senator LEVIN. That's the recent report.

Mr. USILANER. Yes, that was in 1986 that the IG report came out.

Senator LEVIN. I'm talking about the 1981 report because one of the things we like to do is find out to what extent agencies respond to GAO recommendations. Can you identify for us what response the FSIS made to your 1981 report?

Mr. SAWYER. Yes, sir. The agency did respond to the GAO report. We have a copy of that response, but as mentioned, due to the preliminary nature of our work we have not had the time to analyze it.

Mr. USILANER. We'll submit that for the record.[1]

Senator LEVIN. That would be fine.

And, finally, in the study which you conducted that you described here this morning, did you talk to inspectors as well as to their supervisors?

Mr. USILANER. Yes, sir.

Senator LEVIN. And can you assess for us the morale of those inspectors?

Mr. USILANER. At this point since we have only been to visit a few plants, are our work is preliminary. All our interviews so far have been in the presence of management, but we plan to get into this point in the review stage.

Senator LEVIN. You plan to what?

Mr. USILANER. To get into the area of trying to document some of the allegations that we keep on hearing about the inspector's job.

Senator LEVIN. And about the morale issue?

Mr. USILANER. Yes.

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[1] The information referred to was not received prior to printing of this hearing.

Senator LEVIN. Would you submit to this committee the results of your review of that issue?

Mr. USILANER. Yes.

And, Senator Cohen, that will be part of our report that you requested.

Senator COHEN. Well, I'm just curious, Mr. Usilaner, why would you want to interview an inspector in front of the management? It's sort of like taking an employee of a company and bringing him into a back room and have the boss there and say what do you think of the operation.

Mr. USILANER. This is the planning stage that we are in, sir.

Senator COHEN. But why would you do that in any event?

Mr. USILANER. All we're doing now is getting a feel for the operation and how they go about doing their job. We are not yet getting into the morale issue or whether they have flexibility or whether they are being harassed by management. This is just the first stage of our work.

Senator COHEN. You would agree that that's an inappropriate way to determine whether morale is high or low?

Mr. USILANER. Yes, and we plan to do some type of attitude questionnaire. It was already brought up there was an 1983 questionnaire that was done by the union. We plan to do some type of questionnaire where the results are sent directly back to us. That is going to be built into our review.

Senator COHEN. Without identification of the inspectors?

Mr. USILANER. Exactly.

Senator COHEN. You didn't reach any conclusion or attempt to reach a conclusion as to whether FSIS should get out of the inspection, the physical inspection business, did you?

Mr. USILANER. No. We only are identifying in our work productivity and quality management issues. We keep close touch with the private sector and firms are getting away from just detection and focusing on prevention. The emphasis of FSIS at this point appears to be on the detection part rather than prevention. There is a layer of inspection over the inspectors. The inspector-in-charge is inspecting them. You have circuit supervisors inspecting them. You have area supervisors, and then you have regional management inspecting them. But it's focus is on detection rather than prevention.

Senator COHEN. I take from your answers to Senator Levin's questions with respect to this new discretionary inspection program that it would be very difficult for FSIS, if it doesn't keep specific data on specific plants, then that program really can't work.

Mr. USILANER. That's our concern about justifying that program. Do you want to add anything, Connie?

Mr. SAWYER. The agency relies, as Dr. Houston mentioned earlier, they rely on their supervisors, the inspector-in-charge, then that circuit supervisor and the chain of command. They believe these people have the information, the subjective information, the information from being there over time. They feel they can make the assessment, but to have specific documentation so that an individual or an independent party could see it, we are concerned about that.

Mr. **Spruill**. I would like to add that the agency itself has acknowledged that they need to have a quality measure by which they can gauge performance in plants say at the end of 1987, and then look at 1989 to see what has transpired in those two years and see whether or not quality has deteriorated or see whether or not the performance of the plant has deteriorated.

We talked to one manager in FSIS who said that the agency, due to their concerns, has decided to try to come up with a quality measure in certain types of plants. This quality measure is going to be based on plant compliance data.

At the time of the interviews they had not really come up with an objective statement as to how they were going to use the information, but it supports our thesis that they need a quality measure. They are taking some steps, some preliminary steps to develop such a measure.

Senator **Cohen**. It seems to me what the FSIS is recommending or is suggesting is that their role be that of monitoring the plant's quality control system. So they would become more of a monitor of that control system and delegate that to the plant itself.

If that's going to be the case, and I don't think any of us are here to pass judgment on that, but if that is going to be the case, it seems to me you have to have some measure of determining whether that plant has a good system or a poor system and whether that performance has been tracked over a period of time.

When we get into the discretionary inspection program, it seems to me you have to have this kind of data in order to say we can devote so much intense inspection to this plant and not to another because of their past performance which continues to track.

Mr. **Usilaner**. Right, and that's what a private firm would do. They would track this type of data and see what the causes of the poor quality are and then take corrective action. However, they need that type of data over time, like statistical quality control information.

Senator **Cohen**. Did you analyze the line-speed increase in terms of what it's impact is on the quality of inspection?

Mr. **Usilaner**. No. As I said, that's going to be a second part of our work. Our observation is you don't know with a conveyor system whether it's true productivity, meaning the line speed is going up to 70 birds a minute, or that the productivity is improving to a decision in quality. The conveyor line system is just like an automobile assembly line where you have quality inspectors. However, without objective data you can't make determinations about overall quality and I think the 1985 Academy report mentioned that.

Senator **Cohen**. But if you have three birds going by a second, they have little more time than to wave on the way by I would think. So that would have some impact on the quality of their inspection, if it's necessary, and that's a question that we have to resolve yet, whether we have to have any physical inspection today.

Mr. **Usilaner**. Right.

Senator **Cohen**. The final question, and I raised the issue with Dr. Houston about the 132 meat and poultry plants which were reviewed by the IG last year with some 2,000 sanitation and chemical deficiencies noted. What follow-up was made by the FSIS? Did you make an examination of that?

Mr. USILANER. They said in their response that they were following up on enforcing the meat and poultry inspection regulations and policies. We plan to check on that point in our work. That was their response to the work.

Senator COHEN. That's not really an answer, is it?

Mr. USILANER. From the FSIS point of view?

Senator COHEN. Yes. I mean from their point of view is that really an adequate answer if you ask about what the follow-up was and they say we're following up on what the process was. Did they give you an answer?

Mr. USILANER. Let me see if I can find it. They're going to implement a tracking system to provide assurance that deficiencies identified as corrected in a timely manner and implement internal control procedures to ensure that the inspectors are enforcing the provisions.

Senator COHEN. The question I had is there were some 2,000 citations for deficiencies, and I want to know what FSIS did to follow up on those notations, if anything, and did they provide you with any documentation that they followed up on those deficiencies.

Mr. SAWYER. We have not specifically done that, but we talked with an agency representative responsible for the documentation of violations and the enforcement program, and that person said that the requirements are in place to document the various violations that take place. However, the agency has experienced a problem in having the violations properly documented and having the necessary documents completed on a regular and systematic basis from inspector to inspector and from plant to plant.

Senator COHEN. I know, but the answer to say that the requirements are in place, but we haven't got the information means you haven't followed up on that particular information.

Mr. SAWYER. Exactly. And that to us implies that the information may not be available.

Senator COHEN. Thank you.

Senator LEVIN. Thank you, Senator Cohen.

Senator Pryor.

Senator PRYOR. Mr. Usilaner, our previous two witnesses stated their credentials and qualifications. I wonder if you would state yours.

Mr. USILANER. I have a doctorate in management. I have a master's degree in industrial engineering, and I have an undergraduate degree in industrial engineering as well.

Senator PRYOR. Very good, and how long have you been with GAO?

Mr. USILANER. About 10 or 11 years, and prior to that I was with the Office of Management and Budget in management improvement activities and I've been focusing on productivity and quality management for the last 12 to 14 years.

Senator PRYOR. Very good.

What about you, Mr. Sawyer?

Mr. SAWYER. I have a BS degree in accounting, and I have 10 years of experience with GAO.

Senator PRYOR. You have a BS in accounting?

**Mr. Sawyer.** Yes, sir.

**Senator Pryor.** And you've been with GAO how long?

**Mr. Sawyer.** Ten years.

**Senator Pryor.** And Mr. Spruill, what about you?

**Mr. Spruill.** I've been with GAO about nine years. I have an undergraduate degree in computer science and economics. I have an MBA in management from Golden Gate University.

**Senator Pryor.** All right. Now my first question—and I think if you will search the record that you will find the biggest supporter of GAO in the whole United States Senate is the junior Senator from Arkansas, me. I'm a big fan of GAO. So I want to put my credentials out there before I say this.

Now how are you qualified to assess morale in a chicken plant?

**Mr. Usilaner.** Well, a key ingredient of any productivity and quality improvement effort is the human resources of that organization or that plant or that firm. Part of my doctorate was in organizational psychology. If you go to any company that has been successful in productivity and quality management, they will tell you that the key to their success is how they treat their employees. Employee attitudes are the best predictor of employee behavior which results in the performance—whether it be good or poor quality or good or poor productivity. We constantly build into our work this assessment of morale, motivation and attitudes that are positively or negatively impacting productivity or quality.

**Senator Pryor.** Do you think you could go over to the Russell Building in my office and spend a couple of hours and see how the morale of Senator Pryor's staff or Senator Bumper's staff or Senator Roth's staff might be?

**Senator Cohen.** Outside the presence of Senator Bumpers.

**Senator Pryor.** Do you think you could assess that? [Laughter.] Well, how many plants did you visit?

**Mr. Sawyer.** We've been to four plants.

**Senator Pryor.** Four poultry plants. Now the next question is this. How many inspectors did you interview?

**Mr. Sawyer.** We haven't specifically sat down to interview inspectors. Our visits were primarily to get a feel for the operations and to understand the operations. We talked to a few of the inspectors or the veterinary medical officers there just to get their opinions on the overall operations of the plant.

**Senator Pryor.** You know, this is a very interesting concept to me because I have never in my years in the Congress seen the GAO come forward in public with a preliminary report that was not finished and not even half finished. Isn't this unique?

**Mr. Usilaner.** We emphasized in our statement that these are preliminary observations and I also mentioned what we plan to document in the remaining part of our work. I emphasized that several times in my statement.

**Senator Pryor.** How broad is your mandate? Do you get to look further than FSIS? Are you going to look at the Food and Drug Administration?

**Mr. Usilaner.** The whole focus of this job was that the concern is for quality and productivity management in all inspection functions throughout the Federal Government. You have a situation now where you've having cut-backs that are affecting all types of inspections. It's not just poultry. The key issue is how do you balance productivity improvements with quality or quality of service that is so important? And this is just the first area in our work.

As I mentioned, we picked Agriculture because they have the largest number of inspectors, and within Agriculture FSIS had the largest number.

Senator PRYOR. Well, why did you go after poultry in this particular report? Why didn't you look at red meat, for example? Why was poultry the one that you first targeted?

Mr. SAWYER. The way we got started, and as Mr. Usilaner mentioned, we are out of our Norfolk office, and the way GAO is organized, the Norfolk office is responsible for the States of North Carolina and Virginia. And as we started our work in that area, those two States fall within the Southeastern Region of USDA/FSIS, and that Southeastern Region is responsible for approximately 60 to 65 percent of the nation's poultry, and that's how we ended up in poultry.

Senator PRYOR. Well, they've got the biggest hog farm in the world in North Carolina, and that's in your district, isn't it?

Mr. SAWYER. They were told that the swine industry was a sleeper.

Senator PRYOR. Was a what?

Mr. SAWYER. A sleeper.

Senator PRYOR. What does that mean?

Mr. SAWYER. They said that it meant that they have several larger plants, that if those plants were to close it would have a great impact on the economy.

Senator PRYOR. Well, how long will it take to complete just the report on poultry? How long will that take GAO?

Mr. SPRUILL. Senator, if I may respond. We had anticipated at this time doing a separate report solely on poultry. It so happened that we had visited poultry plants in an area that has a lot of poultry at the time the hearings came about, but we still plan to look at red meats.

Senator PRYOR. Are you going to look at some of these places that have shell fish and lobsters and things like that?

Mr. USILANER. No.

Senator PRYOR. Why?

Mr. USILANER. Because we are looking at the Federal inspection function.

Senator PRYOR. And there is no inspection of those; is that correct?

Mr. USILANER. Well, that's right.

Senator PRYOR. Well, as a member of this Subcommittee, I'm hereby requesting you to look into the Food and Drug Administration and see why these lobsters are not inspected. For example, look here. This mail order catalogue came to my desk just yesterday. It says the "Maine Event," and look at all these lobsters in here. They are not inspected and they're going through the mails.

I'm hereby asking GAO to give equal attention to those items of consumer goods we eat that are not inspected, and I'll put that in writing to you.

Mr. USILANER. Yes, sir.

Senator **Pryor**. I'm not trying to be smart with you, but I am just trying to say that one thing is very clear. We're going after one segment in a preliminary report. I've seen this done before in a committee, and it's really very upsetting to me to see GAO being used like this. I'm very sorry about it.

Mr. **Usilaner**. Senator, we've just started the work, and the work was focused on inspection functions throughout the Federal Government. We're working with the Subcommittee staff and they wanted us to look at Agriculture first, and FSIS was the largest. As I mentioned about in my testimony, we are in the preliminary stages and we've drawn no conclusions or recommendations. These are observations to date.

At this point we have not been able to document any objective measures of quality of the plants or of the inspectors' performance. That doesn't mean that we're going to stop at poultry. We are going to continue to look at other functions throughout the Federal Government.

Mr. **Sawyer**. I would like to also add that our preliminary observations on the lack of objective quality measures apply to all inspectors and not just poultry.

Senator **Pryor**. Will you say that again, please?

Mr. **Sawyer**. The preliminary observations that we have in our statement about the lack of quality measures and the lack of being able to assess plant quality applies to all plants and all inspectors and not specifically poultry.

Senator **Pryor**. I believe that's all the questions I have.

Senator **Levin**. Senator Bumpers.

Senator **Bumpers**. I'm not a member of this Committee. So I want to thank the Chairman very much and I'll be very brief, Mr. Chairman. But I do appreciate your allowing me to participate for just a moment.

Let me start off with this observation. The first year I was elected Governor in 1971 poultry consumption in this country was about 17 pounds per capita, and at that time red meat consumption was close to 110 to 115 pounds per capita. This year, 1987, it's anticipated that consumption of those two products will be equal.

Now I have cattle farmers in my State, and we're not a big cattle State, but I have an in interest in their welfare also.

No. 1, I personally believe that the biggest bargain for the consumer on food in this country is poultry, not the least of which reasons are that the techniques and the technology used in producing poultry and in poultry processing have improved just exponentially.

But let me ask you gentlemen this. No. 1, when you consider the economics of this issue, who do you think has the greatest interest in producing a quality product for Mr. and Mrs. America when it comes to poultry?

Mr. **Usilaner**. The poultry manufacturer.

Senator **Bumpers**. Absolutely. So, first of all, I think the suggestion here that somehow or other the poultry people in this country really don't care about what kind of a product they put out is most fallacious and illogical. Do you agree with that?

Mr. **Usilaner**. I agree. In fact, I just visited a plant last Friday and I was extremely impressed with the cooperative nature between plant management and the FSIS inspection staff. Both have the same goal, and that goal is to produce a quality product. They work closely together in achieving that end and in fact the inspector-in-charge said the key to the success of that plant is the cooperative nature and concern that both have for a quality product. I was extremely impressed with that.

Senator BUMPERS. And when 60 Minutes or GAO or anybody else hones in on a particular industry which employs one out of every 12 people in my State, I wonder why that is when all the statistics I've seen, for example, for the Center for Disease Control show that the presence of salmonella—that is outbreaks of salmonella, people who actually get sick from it—the numbers are much greater for dairy products or red meat and especially for seafood. Poultry is way down the list.

So could you tell me why the focus is on poultry?

Mr. USILANER. The focus is not on poultry.

Senator BUMPERS. Well, you just got through answering Senator Pryor a moment ago that you're not going to check seafood. Is that correct?

Mr. USILANER. Our——

Senator PRYOR. It is now. [Laughter.]

Mr. USILANER. Our mandate from the Subcommittee was to review the productivity and quality of Federal inspection functions. Now since there is no Federal inspection function now going on, that wasn't within the scope of the request.

Senator BUMPERS. Let me make one other observation. I mean Dr. Houston has been very forthright and very open about this, and Senator Pryor and I are not here to defend a product that isn't quality or a product that's contaminated. We're here to make certain as a matter of fact that it is a quality product, but we don't want to be discriminated against either because it is our biggest industry and the only bright light in our whole economy in Arkansas right now.

Mr. USILANER. I understand your point of view.

Senator BUMPERS. But if you look at CDC's figures you will also find that in the incidents of outbreaks of salmonellosis it is almost invariable from a public facility, a school cafeteria, a restaurant or some other place where the quality of the product when it came out of the processing plant obviously had nothing to do with the outbreak.

Are you going to check public facilities that serve poultry?

Mr. USILANER. No. As I said, we were just focusing on productivity and quality management of Federal inspection operations. Checking on public facilities is not within the scope of our review.

As I said, there were 76,000 employees Federal employees doing inspection functions in many agencies. We feel that if we can document productivity and quality improvements in a handful they will be transferable to other Federal inspection functions. We have a very limited scope, sir, and I want to make that point clear, but I still appreciate what you have said.

Mr. SPRUILL. I would like to just add one point to that. I believe that the key to handling the problems with outbreaks in public facilities rests on better, well coordinated consumer education relative to food handling and preparation.

Senator BUMPERS. I want to say I agree with that, and I'm sure the point has already been made, that if you don't want to get salmonella from poultry or anything else, cook it. I don't know many people who eat raw chicken. And, you know, 140 degrees kills any salmonella. Dr. Houston, I heard him on 60 Minutes saying 35 percent of the product has some possibility of salmonella.

Mr. SPRUILL. Part of the problem there though may be that the food may be cooked well, but in handling it and preparing it it may have come in contact with other surfaces and other foods, including vegetables. So you can spread salmonella that way. You can have well cooked food, but have it in your salad.

Senator BUMPERS. Well, I want to say this is not to denigrate the great State of Maine or their distinguished Senator, but my personal testimonial is I've seen sick a few times in my life with food poisoning and all but one has been after I ate seafood. So you can understand why Senator Pryor and I may just be suffering from a shade of paranoia about this whole thing.

Mr. USILANER. I want to continue to underscore that the poultry industry was not the focus of our work.

Senator BUMPERS. Mr. Chairman, you've been very kind and indulgent and I appreciate it. I won't take any further time now or later.

Senator LEVIN. We're happy to have you, Senator Bumpers.

Let me just make one reiteration as to what we are about here this morning. We are looking into the management of the Food Safety and Inspection Service of the Department of Agriculture. We are not looking into any one industry. There are many industries covered by that, as a matter fact, both the processing and the slaughtering and number of other things.

We are not focusing on any particular industry.

Mr. USILANER. And we are not assessing the job that a particular industry does or doesn't do.

Senator LEVIN. And I want to just state that as positively as I can. We are just looking at the overall management of the FSIS. That's the purpose of this hearing, and I want to assure everybody we are not focusing on any one particular part of our food industry at all. We are looking at the overall management of the FSIS.

Now Senator Cohen.

Senator COHEN. Thank you, Mr. Chairman. I was just going to bring that point back into focus. It has been at least implied that somehow there is a need on the part of the Maine lobster to try and take some competition away from Arkansas poultry, and I don't think there is that competition.

Senator BUMPERS. You can't do it. Don't try. [Laughter.]

Senator COHEN. I don't think there is any competition, but I'm delighted to have Senator Pryor or Senator Bumpers offer an advertisement for Maine lobster. That's not the purpose of the hearing. It was to oversee, to conduct our oversight responsibilities in terms of whether we're having an adequate management of the Food, Safety and Inspection System, period.

And, secondly, with respect to the GAO testifying on a preliminary basis, I believe this Subcommittee has been well versed in the entire issue of computer matching and GAO consistently during my years of experience has been asked for preliminary findings on issues that this Subcommittee has been concerned with.

So I appreciate your testimony. I think it's preliminary in nature and I think you've indicated that you've reached no conclusions, but it's been very helpful to me.

Mr. USILANER. Thank you.

Senator LEVIN. Let me thank all of you, if my colleagues have no further questions, for your participation, and we are grateful for your testimony and also for what you're going to be filing with the committee at a later time.

Mr. USILANER. Thank you very much.

Senator LEVIN. We now are going to move to a panel with Charles C. Allen III, who is President of Allen Family Foods, representing the National Broiler Council, and Stanley J. Emerling who is the Executive Vice President of the National Association of Meat Purveyors.

I understand that Senator Roth is here, our good friend and colleague.

Senator Roth, I understand, if I'm correct, that you're going to be introducing Mr. Allen?

Senator ROTH. That's correct.

Senator LEVIN. We won't welcome you to your own Committee, but we are delighted, all of us, to have you introduce Mr. Allen.

Senator Roth.

## OPENING STATEMENT OF SENATOR ROTH

Senator ROTH. Thank you, Mr. Chairman.

I'm pleased to have the opportunity of introducing my good friend and leader of the poultry industry at home, Charles C. Allen III.

Let me before I proceed with my introduction point out that the broiler industry is an industry of great importance to my State, one that has flourished and helped the success of the Delmarva Peninsula. In fact, one of my predecessors, Senator Townsend, was one of the great leaders in the broiler industry.

I think the thing that we are particularly proud of is that this is an industry that has grown and grown without basic Federal subsidies, and one that continues to feed the American family well at a price very commensurate with what it was 20 or 30 years ago all without Federal assistance or subsidy.

As you well know, the chicken is known to be one of the best foods today, not only price-wise, but health-wise. I can say for the industry and for the growers that they, too, want this to be a healthy, safe industry. This is of paramount importance to them, and that is one of the reasons I'm pleased to have the opportunity of introducing the President of the Allen Family Foods, which is one of the largest single chicken growers on the Eastern Shore, the 29th largest in the country.

Chick Allen comes from a family firm that is a well established integrated poultry producing complex on the Tri-State Delmarva Peninsula. This family owned business has had a tremendously favorable impact on the growth and prosperity of my State.

So I am indeed proud to introduce a man who has been a dedicated State and community leader. He takes his position responsibly, and I think he can shed a great deal of light on the questions before this panel.

So it's with pleasure that I introduce Chick Allen.

Mr. ALLEN. Thank you, Senator. I appreciate that fine introduction.

Senator LEVIN. Mr. Allen, I'm wondering if you can summarize as much as possible because of the hour and make yourself available for questions, and Mr. Emerling also. We would appreciate a summary of that testimony.

Mr. ALLEN. Yes, Senator. We have a summary of the testimony and would ask that our testimony, the full text, be part of the record.

Senator LEVIN. It will indeed, and we appreciate that.

Mr. ALLEN. Thank you, sir.

## TESTIMONY OF CHARLES C. ALLEN III, PRESIDENT, ALLEN FAMILY FOODS, REPRESENTING THE NATIONAL BROILER COUNCIL,[1] ACCOMPANIED BY GARY JAY KUSHNER, LEGAL COUNSEL, AND MAHLON A. BURNETTE III, PH.D., TECHNICAL ADVISOR

MR. ALLEN. My name is Charles Allen III, and I am the President of Allen Family Foods in Cordova, Maryland, and a member of the Board of Directors of the National Broiler Council, and appear today on behalf of that organization. NBC is the trade organization of chicken producers and processors.

Accompanying me is NBC's legal counsel to my left, Gary Jay Kushner, and we have our technical advisor, Dr. Mahlon Burnette with us also.

In the 30 years since poultry inspection was first mandated, the technology involved in poultry slaughter and processing has advanced beyond anyone's expectations. With the help of science, the poultry inspection system has also evolved in an attempt to keep pace with the strides made in poultry production.

As the National Academy of Science has reported earlier this week, we are at a crossroads. The time has come for the inspection system to take the next major step in modernization to allow industry to assume even greater responsibility for product quality and to permit the establishment of a risk based inspection system that most efficiently and effectively utilizes inspection resources.

When mandatory inspection began one or more USDA inspectors on each chicken processing line each manually and visually inspected one bird at a time. In 1979 the system was changed to what is called modified traditional inspection with three inspectors on each line examining different areas of each bird.

Today with chicken processors performing the majority of product quality checks, USDA has been able to reduce the number of inspectors to two under its streamlined inspection system. In each step industry has accepted more responsibility for sorting birds and rejecting defective ones and USDA's inspection resources were more efficiently and effectively utilized.

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[1] See p. 111 for Mr. Allen's prepared statement.

Industry sorting with USDA oversight is the inspection approach forming the conceptual foundation for what is known as the third generation of inspection, an experimental system currently being tested by the Department in one pilot plant. That system relies on computer recordkeeping and data comparison as well as direct visual supervision by USDA.

Recently the progression away from the traditional labor intensive inspection has been criticized. Instead of continuing to move into the future, certain USDA inspectors would prefer that the inspection evolution stop or even reverse.

Frankly, certain inspectors and their unions in fear of losing jobs to technology and progress have tried to convince the public that the system's effectiveness has declined. Nothing can be further from the truth. Indeed, none of the changes in poultry inspection has been implemented without thorough laboratory and field testing, and no changes have been instituted which were found not to provide the same or higher level of public protection.

Although the current inspection system has served us well, it focuses on the detection of sanitation and visually displeasing defects of birds and does not take full advantage of scientific advancements that facilitate the detection of microbial and chemical contamination. No USDA line inspection system has ever been able to do this, and no amount of visual inspection ever will.

What is needed is a modern system which utilizes statistical quality control and quality assurance procedures in order to protect the public in the most efficient and economical manner possible.

In the report released this week NAS recommended that USDA use risk assessment procedures in order to focus its activities on those controls with the greatest potential to reduce risk and prevent food borne illnesses.

In addition, the NAS committee recommended that the current system should be modernized. This would require the introduction of a comprehensive quality assurance system and the elimination of bird-by-bird visual inspection.

Such a system would employ statistical sampling, specify quality control checks and quality assurance tests designed to detect risks. The NAS committee credited the current inspection system for the public health benefits that it has provided over the years, but recommended that ground work be laid for modernization of this system.

Recognizing the limited role played by USDA inspectors in examining poultry for visual defects and the ability of industry to perform that function, NAS concluded that USDA's inspection resources might be more appropriately focused in areas other than individual examination of every bird.

NBC agrees that the time has come to begin implementation of risk assessment procedures and inspection. Indeed, NBC had recommended to both the NAS committees that consideration be given to the concept of risk based inspection. Through careful study and the cooperation efforts of USDA and the industry a risk based inspection system ultimately can efficiently and effectively replace bird-by-bird inspection.

Recent media reports have suggested that microbial and bacterial contamination of poultry with salmonella and other microorganisms has increased and that consumption of poultry represents risk of illness.

We appreciate today's opportunity to put this issue into perspective and to provide the members of this Subcommittee with factual information to allay any fears that these sensationalized reports may have created in your constituents.

Salmonella is a bacteria found throughout nature and it is the cause of an intestinal disorder known as salmonellosis. Because it is so prevalent, it can be carried by dust, dirt, insects, reptiles and man. However, the amount of salmonella you normally come in contact with is not great enough to cause illness.

Unfortunately, since this microbe is so widespread, it is also found on raw food products. The same foods that provide a rich source of nutrients for man, including dairy products, meat, poultry, fish, raw vegetables and eggs can become the vehicles for illness if they are mishandled in such a way as to allow salmonella or other organisms to grow to a level where they can cause disease.

In fact, the 1985 NAS report cited a study which found that such abuses of meat and poultry products usually occur in food service establishments and within the home. Contrary to recent allegations, data from the Centers of Disease Control would indicate that chicken is neither the major source of salmonellosis nor is the cause of an increase in outbreaks of the disease.

Moreover, the most recent CDC data suggests that chicken is less frequently the cause of salmonellosis than beef, dairy products or even salads and other mixed foods. Despite our success in minimizing illness from this ever present organism, industry in cooperation with USDA is continuing to search for new weapons against salmonella.

The poultry industry is currently involved in the most extensive review of international and scientific literature on salmonella ever undertaken searching for techniques which might be helful. This information will be utilized by one of the country's premier research laboratories to test promising new procedures designed to reduce even further the incidence of salmonella.

The Southeastern Poultry and Egg Association and the National Broiler Council have established special task forces to oversee this research and to collect all that is known now or may be discovered about salmonella prevention and control.

The charge to the NBC task force is to develop guidelines based on this information which will provide every poultry plant, big and small, with the information necessary in order to process birds under the most modern salmonella control procedures. It is by no means unusual for this industry to engage in voluntary efforts designed to enhance the safety wholesomeness and overall quality of our products.

Much of the broiler industry on its own began programs to improve the microbiological quality of products and to control residues long before USDA ever considered the need for such programs.

No matter what the industry does to address this concern, these efforts cannot succeed without the cooperation of consumers. Inadequate cooking, improper holding temperature and poor personal hygiene are responsible for the vast majority of salmonellosis outbreaks.

On the other hand, proper handling and preparation of food products can eliminate almost entirely any risk of illness. That is why it is so important that consumers be told the facts about salmonella and learn their role in ensuring product quality.

The chairman of the NAS committee emphasized this at the press conference on Tuesday, and after summarizing the NAS report he said, and I quote: "What does this mean for consumers? Should they reduce the amount of chicken in their diet in favor of other meats or fish? Our answer is clearly no. Poultry is a nutritious and desirable part of the American diet. We do not want to discourage anyone from eating chicken. We do want consumers to be aware of the problem and to handle and cook chicken properly."

NBC has had an extensive consumer education program for many years. As long ago as 1975 NBC published information for consumers about the proper care and handling of chicken. Most recently NBC published and is widely distributing another consumer handling brochure entitled "Questions and Answers About Chicken and Food Safety." This educational pamphlet specifically addresses the possibility of microbial contamination and includes practical and useful information on cooking and storing temperatures, proper kitchen sanitation, thawing and reheating products and how to handle picnic foods.

This booklet has been distributed in the United States and Canada to food editors, food distributors, public relations agencies and agricultural and farm groups. We are also supplying pamphlets for direct distribution to consumers in the supermarket where they purchase their meat and poultry.

Senator LEVIN. Mr. Allen we are going to have to ask you to summarize the rest of your statement.

Mr. ALLEN. I have a half a page, Senator. May I please?

Senator LEVIN. Would you summarize the half a page because I'm afraid some of us will not be able to ask questions otherwise.

Mr. ALLEN. I will summarize for you. Thank you.

Our industry is very willing to assume the responsibility for our product quality. Our brand names are the best guarantees that we can offer. We are proud of what we have accomplished and we make our commitment to continue working with USDA and Congress as we look towards the future to utilize science and technology.

Mr. Chairman, we thank you for the opportunity to come before your committee with this information this morning.

Senator LEVIN. We thank you for your understanding of our time schedule and we assure you that your entire statement will be made a part of the record.

Senator LEVIN. Mr. Emerling we would be most appreciative if you would summarize, and if your summary is long, would you summarize the summary.

Mr. EMERLING. I will do my best, Mr. Chairman. I would hope that the full testimony would be read into the record.

Senator LEVIN. It will indeed.

## TESTIMONY OF STANLEY J. EMERLING, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF MEAT PURVEYORS [1]

Mr. EMERLING. NAMP appreciates the opportunity. Our members are primarily processors of red meat products for the food service industry and we support a strong and efficient meat and poultry inspection system that maintains public confidence in these products.

I would like to respond to the four issues that you asked me to address, the first being the adequacy of the current inspection process.

We are confident that the law is adequate to assure the public that their meat and poultry products are safe. We are confident that FSIS is dedicated to making this happen.

Dr. Houston and his staff recognize the great trust placed with them and handle this responsibility very well though at times they are hampered by budgetary restraints and personnel considerations.

NAMP supports FSIS's efforts to upgrade the inspection work force with better trained and qualified personnel in the areas of microbiology, and we endorse their efforts to change from a system based on sight, touch and smell to systems scientifically designed to measure and assess microbial and bacterial contamination.

We support an animal identification program.

Though not directly related to food safety but to quality, NAMP has made several efforts, including the "Meat Buyers Guide" which outlines meat products as envisioned through the Institutional Meat Purchase Specifications, and we have campaigned continuously for strong grading standards and have worked to try to prevent the lessening of those standards.

The "Meat Buyers Guide," incidentally, has been credited with changing the distribution system of red meat from carcass to boxed product and thereby helping to promote more extensive use of these meat products at lower cost.

With regard to your second question as to a recommendation on how to improve the quality and effectiveness of inspection, we have several.

The first, to provide a continuum of surveillance over meat and poultry products after they leave inspected establishments until they reach the retail use level.

USDA does not presently know the names or total number of non-inspected companies who may be dealers or distributors of meat and poultry products. USDA has also declared itself inadequate to police State maintained inspection systems and custom exempt facilities and has through its rule-making process without external evaluation of the impact of these decisions decreed that these systems should be returned to State and local supervision. We feel this is a contradiction of the congressional intent that all meat and poultry be equal to Federal standards of compliance.

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[1] See p. 123 for Mr. Emerling's prepared statement.

This may be a rather large job, but if food safety is the key, then because meat or poultry is not ultimately judged safe by present day standards until it has been utilized by consumers, there should be adequate safeguards and compliance oversight to assure a continuum of this food safety.

Secondly, we have another suggestion. It is our opinion that safer and more nutritious and economical meat supplies for the consumers should not be compromised either by resistance to change due to union activity or by personality conflicts that may arise between regulatory and plant personnel.

We would like to see established an independent office within USDA that will function in an ombudsman-like capacity. The purpose of such an office would be to review and moderate disagreements between inspected establishments and FSIS personnel.

The ombudsman office would prevent situations such as a number of members are having on the local levels in obtaining inspector cooperation and assistance in efforts to join in these new and improved food safety quality assurance programs. The allegation has been that this resistance is due to the inspectors union's policy which is designed to prevent implementation of new programs that might eventually reduce the number of their jobs.

Companies are reluctant about raising this issue due to the concerns about creating even greater difficulties for themselves with their inspectors. We are now concerned about this same problem as the agency prepares to establish guidelines and profiles in companies to assess their eligibility under the new discretionary inspection or being placed under even more rigid supervision, depending on the individual company's risk assessment.

We do not feel FSIS should be required to deal both with collective bargaining and its possible effects upon food safety programs, but should devote its full manpower and energy to create a system to provide the absolute best meat and poultry safety programs possible.

Going on to item 3, the views on the——

Senator LEVIN. Mr. Emerling, we are going to have to ask you to summarize, if you would, the balance of your statement. Can you try to summarize just in a sentence or two each of the remaining items that you have?

Mr. EMERLING. We endorse the present PQC and DI initiatives, but this is only part of the problem.

The proper handling by commercial or individual users of meat and poultry products is the real key to solving the salmonella problem. If the products are mishandled and contaminated by retailers or consumers through improper handling from ignorance, the problem will not be resolved.

With reference to the education, that's the bottom line of the efforts. We in the industry know we have to upgrade the way we do things. We seek to assure the highest degree of food safety, but that's just the first step. After that to maintain the product's integrity, food handlers, retail clerks and consumers must not only know the rules of food safety, but they must practice them. It must not be left to chance.

It is increasingly more important that we have this information especially as the demographics of our country change and new cultures' languages become more prevalent.

Mr. Chairman, this would conclude a synopsis of my testimony, and we appreciate your interest in our comments.

Senator LEVIN. Well, we appreciate your understanding of our situation and your entire statement, sir, will be placed in the record.

Senator LEVIN. First, Mr. Emerling. The GAO testified earlier this morning that the FSIS does not maintain data on a plant-by-plant basis in terms of compliance with regulations, and it was specifically stated this applies to meat and poultry both by one of our witnesses.

Do your industry organizations keep that data?

Mr. EMERLING. Well, each plant is required to keep it. A file is kept by each inspector within each plant based on that inspector's knowledge and a surveillance of what has happened on a day-to-day basis if it be on slaughtering and day-to-day on processing. So there is a file and each company is required to maintain records and also send them into the department.

Senator LEVIN. Were you here this morning when we had that testimony about the lack of data to make it possible to make a plant-by-plant quality assurance assessment?

Mr. EMERLING. Yes, I was.

Senator LEVIN. Do you disagree with that testimony?

Mr. EMERLING. I think they were looking at a different perspective on that. It's a question of whether the plant is being monitored and there is data being kept on the plant or whether in fact that data when it's reviewed by USDA assesses whether their inspectors are efficient or not.

Senator LEVIN. There was both I think. There was both that was lacking.

Mr. EMERLING. Well, I'm not conversant with the slaughter operation because primarily our members are processors and that's a different degree.

Senator LEVIN. Mr. Allen, do you have any comment on that testimony we heard earlier this morning about the lack of data to make a plant-by-plant assessment?

Mr. ALLEN. Each facility does keep records as USDA requires.

Senator LEVIN. Do you disagree with the GAO testimony in that regard? Were you here to hear it, first of all?

Mr. ALLEN. First of all, yes, I did hear the testimony.

Senator LEVIN. Do you disagree with it?

Mr. ALLEN. Do I disagree with the testimony?

Senator LEVIN. In that regard.

Mr. ALLEN. Not totally, Senator, but the information that is kept in the plants by the inspector-in-charge who is a veterinarian is required, and they do keep a lot of data in the slaughter operation.

Senator LEVIN. Senator Cohen.

Senator COHEN. Mr. Allen, just for the record, I should indicate that I do eat chicken, a lot of it.

Mr. ALLEN. Thank you, Senator.

Senator COHEN. I continue to do so, and I hope that Senator Bumpers and Senator Pryor continue to eat Maine lobster.

Senator LEVIN. And I eat both. [Laughter.]

Senator COHEN. What I wanted to point out is you have presented some very positive testimony today and, frankly, I think that both you and Mr. Emerling should welcome this hearing.

Mr. ALLEN. We do, Senator.

Senator COHEN. It has been seen somehow as targeting your specific industries, when in fact, there have been charges out there, and whether they are true or false or substantiated or unsubstantiated, they are out there, and it has had a negative impact. I think that's fair to say.

My point is, you should welcome this opportunity in a public forum in which we have at least the means of communicating to thousands, if not millions of people, your side of the story, and I think that that is something that has been overlooked during the course of the morning. You should welcome this opportunity.

Mr. ALLEN. We do, indeed, Senator.

Senator COHEN. What I wanted to point out or at least ask you a couple of questions about, is whether you believe that we should replace this bird-by-bird inspection? I think you indicated we ought to do away with that. Do we need any Federal inspectors on the line, in your judgment, to make a physical inspection of the chickens or meat?

Mr. ALLEN. We do need to replace bird-by-bird inspection.

Senator COHEN. What does that mean? Do you mean just take them off the line, and we don't need to have Federally paid employees to inspect birds?

Mr. ALLEN. No, I think we need to have, and I think the industry would welcome continued support from USDA in the regulation of meat products. Again, it's the concern of the industry that we produce wholesome products for consumers.

Senator COHEN. I understand that and I don't question that. What I want to know is, in your judgment, do we need to have Federal inspectors on the line examining birds physically?

Mr. ALLEN. Not bird-by-bird.

Senator COHEN. Well, every other bird or every 10 birds? Why do you need Federal inspectors at all doing this job?

Mr. ALLEN. Well, to have the confidence in the product quality that we have generated. Again, the companies with branding their products are concerned about the product quality.

Senator COHEN. But you're just as concerned about putting out a bruised bird into the market with your label on it, aren't you? You don't want that out there.

Mr. ALLEN. No, I do not.

Senator COHEN. So you can take care of that.

Mr. ALLEN. Yes, I can.

Senator COHEN. So what you're saying is you don't really need a Federal inspector on the line to take a look at the physical deformities or bruises or problems with the bird esthetically.

Mr. ALLEN. That's correct.

Senator COHEN. So you would recommend that we eliminate it altogether.

Mr. ALLEN. That we eliminate bird-by-bird, yes.

Senator COHEN. And just leave it up to the companies to establish their own quality control.

Mr. **Allen**. Well, I'm afraid to get into speculation as to the types of system because there is a lot of research out there really yet to be developed, and I caution that we don't get into too rapid legislation to do something that we really should not do.

The system we have in inspection is a fine-tuned machine, and what we want to do is fine-tune it and make it even better and to do the things that we want to do for consumer health.

Senator **Cohen**. But why fine-tune a machine if you can eliminate that facet of it which is unnecessary? Why keep Federal inspectors on the line at all if there is no merit to having them physically there to inspect the birds?

Mr. **Allen**. The quality of products have grown and been enhanced through husbandry practices, through vaccination programs and through industry using science and technology to do things that we used to do years ago. We're plateauing as we go along.

Senator **Cohen**. I agree with you. What I'm asking you is if that's the case, why do we have inspectors at all on the line?

Mr. **Allen**. I think that was Dr. Houston's concern, too. That's a good question and that's what we are evaluating I hope.

Senator **Cohen**. And you would agree that if we go to this new speeding up of line production to maximize production rates because that's what you're in business to do, three birds a second, very few human beings can do much in the way of looking at a bird on the way by other than looking at it on the way by, right?

Mr. **Allen**. The three birds a second, and we've listened to that this morning, I think is misleading. The most efficient line is the SIS at 35 per minute per inspector, two inspectors on a line running 70 birds a minute. The most efficient inspection program today is that program called the SIS program, and these inspectors each look at within one minute 35 birds maximum.

The inspector-in-charge who is a veterinarian can slow those lines down if he is not satisfied with the performance of industry, and he can slow you down to a crawl or he can stop, make you stop, and that's the financial incentive. He can condemn your product and he has a multitude of reasons for which he can do that. He's responsible, he's accountable and those were the financial incentives that you asked about earlier.

Senator **Cohen**. And what has been the experience of the industry, if you can speak for the industry generally, about the relation of those inspectors who can shut down the line, or slow the line down, or toss out birds, or threaten to cite a particular plant with some sort of punitive action?

Mr. **Allen**. The responsibility of USDA is explicit and the responsibility of management is explicit, too. We look at it as a two-way street. They have to live with us and we have to live with them. And we have progressed through the years because of this attitude.

The industry listens. We don't always agree, but we listen and we'll sit down and we'll discuss what their outlook is and how they view things and how they view new programs and how the industry looks at things and views new programs and the impacts of those recommendations.

Senator COHEN. Well, is it a positive relationship as opposed to an adversarial one?

Mr. ALLEN. Yes, Senator, I would say overall it is positive.

Senator COHEN. And you have very few instances, I would take it from that, where you have complaints about the quality of the inspectors in terms of what they're doing?

Mr. ALLEN. In my knowledge personally from the Eastern Shore I think the rapport, and not to mislead anybody as to something else in the other parts of the country, but only what I'm intimately familiar with, the relationship with USDA is very positive and very open.

Senator COHEN. One of the recommendations by some independent reviewers is that we establish tolerance levels for microbial contamination of raw meat and poultry products. What's the industry's position on that?

Mr. ALLEN. We do feel it's premature because of the scientific ways that things are done, and Dr. Mahlon Burnette may quote from the NAS study. He can best answer that question for you, Senator.

Senator COHEN. You just think it's premature.

Mr. BURNETTE. Well, Senator, I don't want to take a lot of time because I know you're in a hurry, but the Academy which reported on Tuesday said that they looked at the scientific evidence in the systems and found there was no way that you could set reasonable microbiological quality standards for meat or poultry at this time or microorganisms such as salmonella. There are scientific reasons for that and we'll be glad to put more in the record, if you want, but the Academy has found that we cannot do it at this time.

Senator COHEN. One final point. The National Research Council released a report about the education of consumers, and it also recommended at a minimum that some labels be attached to each ready-to-cook bird to remind consumers how to handle the poultry in order to avoid illness. Do you agree with that?

Mr. ALLEN. NBC does support consumer education.

Senator COHEN. No, I mean that particular——

Mr. ALLEN. With labels?

Senator COHEN. Yes.

Mr. ALLEN. I think you would get into a dispute within the industry on the most efficient way to do that because of the packaging techniques that are used within the industry.

Senator COHEN. So the industry does not support that particular proposal.

Mr. ALLEN. We support the consumer education if that is the best to do that, yes.

Senator COHEN. Thank you.

Senator LEVIN. Thank you, Senator Cohen.

Senator Pryor.

Senator PRYOR. I have no questions, Mr. Chairman. Thank you.

Senator LEVIN. I want to thank you all for your testimony and your understanding.

I think what we will do, by the way, is keep the record open for you as well in case there are some additional questions for you gentlemen.

Mr. ALLEN. Thank you, Senators.

Senator LEVIN. Our final panel today consists of representatives of inspectors and consumer groups.

First, we are going to hear from Kenneth Blaylock who is the National President of the American Federation of Government Employees. Mr. Blaylock is accompanied by Mr. James Murphy of Smyrna, Delaware.

The second witness on our panel is Vernie Gee, an inspector for the FSIS from Gardenia, California. Mr. Gee is accompanied by Thomas Devine, Legal Director of the Government Accountability Project which represents Government whistle blowers, who will recount his experiences in the field as an inspector.

Then our final witness is Rodney Leonard, the Executive Director of the Community Nutrition Institute and a former Administrator of the FSIS.

So, first, we are going to start with Ken Blaylock. We welcome you.

## TESTIMONY OF KENNETH T. BLAYLOCK, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, ACCOMPANIED BY JAMES MURPHY, AFGE MEMBER AND USDA INSPECTOR, SMYRNA, DE

Mr. BLAYLOCK. Thank you very much, Mr. Chairman.

For the record I do have Jim Murphy with me who is the past president of our Joint Council of Meat and Poultry Inspectors and is not a working inspector, and also Dave Karney, who is a working inspector out of the State of Ohio.

Mr. Chairman, I would like to preface my remarks or my statement, and I will summarize this statement for the sake of convenience, and I don't think I need the full 10 minutes anyway to say what I have to say today.

We do appreciate very much the opportunity to give the views of the employees in the trenches that's trying to do a job and protect the American consumer as defined by the law.

While these hearings kind of take the framework almost of a trial, we're not here to blame anybody or try anybody unless it is the Federal Government which we consider to be on trial today. We do have an obligation to protect the consumer.

Senator Bumpers and I think Senator Pryor also in some of their statements with what previous witnesses said, held that we should be concerning ourselves with all food stuffs going to the American consumer, and that's right. We do not just focus on the chicken industry and we do not say that there are not an awful lot of good producers out there. There are. So it's really the role of Government that's at stake.

I was very interested in the preliminary report from GAO when they stated in answer to the question of how do we evaluate how well the inspectors are doing their job, that the agency has no real criteria, they have no standards and they really have no evaluation system. It's purely subjective.

I would suggest to this Committee because of your broad jurisdiction that this is true of all the performance evaluation system throughout government, and that is one of our problems.

In general, Mr. Chairman, Federal employees have tried to continue doing the job no matter what the agency, and you just see here one example of a problem we face today with the mentality of cut, cut, cut and save, save, save.

We have reduced many agencies of Government to the point that they are not able to do their job, and you can talk about the 127,000 notices to Social Security dependents that went way beyond the legal deadlines because there wasn't enough people to do it, or you can talk about our inability to secure our borders because of the lack of people, or you can talk about a situation where the mining industry is now suing the Government for not protecting them and enforcing their standards because they are getting sued because we've reduced the numbers of mine inspectors to the point that we can't do our job, plus we don't have the standards.

In this particular situation I was amazed to listen to the testimony of Dr. Houston as he went through his elaborate proposal for housewives to protect themselves, putting on gloves sterilizing the instruments and making sure you don't put the cooked meat back on the plate that you had the raw meat on.

Mr. Chairman, we're not talking about decontaminating Three Mile Island. We're talking about cooking chicken in the kitchens around the world and in this country.

You talk about morale, and I can tell you we represent the workers and have for years, and I've been involved in this process for years and years with these guys. Their complaint has been, one, we don't have the standards and, two, we don't get the support.

We are not here to advocate that we maintain the old current system of inspection. There have been many changes in technology in the processing plants. We now process 24 billion pounds, if you want to talk just about chicken, of chicken. You can talk about the other meats, too, Senator, and you're dead right. You talked about the seafood industry, and why doesn't Government have some standards in that industry. It's not just salmonella coming from chickens, you're right.

Absent good standards and absent this agency of Government doing something about these changes as they come along, and the advent of chemical contamination in the feed processes in coming from pesticides through food chain, we've done nothing about that. Everybody talks about problems and nobody over the 15 years I've been involved in it has come up with any solution.

And I say it's the government's role to come up with some solutions and our guys will carry out that process once you, once the agency comes up with the solution. It's a very exasperating situation that our guys find themselves in out there as they try, as I said, to protect the American public.

If you look at the law itself you have very specific criteria, but when you look at the interpretation of the law, as I guess a statement that Dr. Houston made recently in other testimony. He pointed out criteria that the law doesn't address at all. He said, first, public protection through the food chain is a primary objective of the agency, but then he says the allocation of inspectors and resources should be based on the risk to the public, and we don't know what that means. Does that mean that a level of 50,000 citizens getting sick a year is an acceptable risk? I don't know what that means.

In decreasing risk to the public an inspection has to take full advantage of the available production and scientific technologies to promote industrial productivity and inspection. Now we know we've got to have a health industry out there. One, we need the food and, two, people need the jobs. So there is no question on that. But there is nothing in this law that says the primary objective of this agency is to promote the industry. Yet, that is what has driven the actions that have occurred over the years.

Let me just run you through a little example, and this happened, by the way, back in a Democratic Administration, Senator. During the Carter years tremendous changes were made, and if you want to talk about chicken, we'll talk just about chicken plants. Tremendous changes were made. And remember along about this time is coming the advent of chemical problems, microbic problems, bacterial problems.

But in those years we went from a process where if the inspectors found a diseased or contaminated bird, they threw it away. We went to the process that then if we got fecal contamination we'll say on the meat, we cut it off and let it go. Well, that wasn't too bad, and at that time we almost doubled the speed of the line.

We didn't get any more inspectors. In fact, today we're operating with about 1,200 to 1,500 fewer inspectors than we had in the initial days. So we speeded up the line and we went to cutting off the contaminated portion of the meat.

Then we said well, that's not working too well. We've got to speed these lines up a little bit more. So we speeded the lines up a little bit more and we went to a bath process. In this process of speeding up the line you've got to remember you also speed up this mechanical gutting machine, and it busts the guts, in very simple terms. So you get more contaminated birds. Now we bathe that sucker as it goes down the line, and thousands of them are going through the same bath. We're cross-contaminating.

Now during this whole procedure, Senator, we did not make one change in the inspection process that was trying to address the problems of new contaminations, of new diseases, of chemicals. We only made changes to accommodate speeding up the lines and productivity. So I ask you what is the agency doing to address the new problems?

Now we talk a lot about the Academy's report, a very scientific report and it basically goes down the same line that we've gone down in the area of occupational safety and health where if you can't scientifically link a person's illness to an agent somewhere at a work site, then you can litigate it for years. You can't prove he died from it, and that's what we're doing with the scientific argument. I would say to you that is not the argument.

I would say the argument is what are we doing to address these new problems, and I would say that is Government's role.

You look at the agency itself, and let's just talk a little bit about the administration of the agency, and we've seen this agency, and I can talk to you about any agency you want to talk about, and you know that. We have seen this agency gradually change. We talked about having a thousand fewer inspectors out there. Well, Senator, I would hope this Subcommittee will ask the agency to provide the information that shows you what the shift has been from on-the-line troops to administrative and overhead troops. It's taken a dramatic switch to administrative costs and overhead costs.

Look at the numbers of veterinarians you now have in this agency that are miles away from any plant. Look at the grade creep in the higher levels, but look at what's happening with the inspector on the line. And you will find if you'll get the agency to provide you, and I'm more specific in the testimony and I'm just summarizing the points we make as I go through, but you will find there has been a tremendous change by this agency of Government to increasing the cost of that agency. Although they like to talk about holding costs down, but a large percentage of their costs is now going to administrative overhead and not to on-line troops. They are disregarding what the on-line troops are doing.

Now we don't play in the game that "You're trying to protect jobs." You're going to need people out there in those plants because while you may have three good plants, you're going to find one bad one. The role of government is to make sure the bad one doesn't pass the contaminated diseased meat through the process, and if it bears a stamp, USDA Inspected, that tells the housewives of America that is a safe piece of meat to eat and fix for her family.

Now if you want to turn it over to the plants, then give the plants the stamps, and that's happening now, by the way, but it still says it's USDA Inspected, but let the stamp then say this plant has inspected this meat and guarantees that it is equal to Government standards. But don't put that Government brand on there that the Government has inspected it unless they have. I think you have a responsibility to make sure that happens.

My guys will do the job. If there is a new process they need to do, if they need to start taking samples of some kind, fine, but the salmonella thing is not an answer. Sampling is not the total answer there. Let's be real about that. You take the sample and it takes you about four days to run that through the lab and find out whether that bird really had contamination or whether it really did have the salmonella or not. You can't hold the line up, or you can't hold that bird four days and then make sure it's identified so out of the millions of them it's piled up in a freezer somewhere so you can go back and pick them out. That's not the thing.

But we know that most of the contamination does come—does come from the fecal contamination in the process. So we can sure see that and we can sure make sure the industry has a process that is complying with the standards to reduce the risk and reduce the hazard.

Mr. Chairman, I'm going to just wind up right quick with a summary of some things we think ought to happen.

One, we think the inspection process should be run and controlled by the Federal Government free from direct industry influence, and we have seen a tremendous amount of industry influence, not just in this area.

I would say to you, and I'm glad to see GAO is finally looking into the inspection processes of Government, all of them, that Challenger would never have occurred had we had the right Government inspection process there. You now have about 90 Federal inspectors in that whole system. We've turned the inspection over to the contractors.

You would not be buying tanks that don't work and airplanes that don't fly and guns that won't shoot if we had our own inspectors in there holding the manufacturers to standards. We gradually are turning those over to all of the contractors and there are a lot of good ones out there, but the bad ones sure take the public for a ride, and that's what happens in this case.

The Government should have an onsite effective presence in all plants involving the production of meat and poultry products. Now what that presence finally looks like, we don't know, but for God's sake let's start coming with some answers. The answer is not just to take them out of there. That's for sure.

Industry productivity improvements should be forced to adhere to any inspection process constrains which are necessary to protect the consumer, and I use as an example when they speeded up the lines they also had to speed up the mechanical gutting machine, and that's causing more contamination. That's just one example.

The Australian system, by the way, uses a system of manpower allocation based on the poundage in the output of the plants. We use a system of Gramm-Rudman. We say cut out the dollars at the top and cut the people off and then let it float out there in the trenches however it will. That's what's happening whether you're talking about only one and a half employees to treat veterans in our hospitals today when State standards require five and a half, by the way, Senator. Our VA hospitals would not meet State standards if you had to get accredited out there, and again I just go to the process we use for making governmental decisions.

The agency resource should be concentrated in the front- line troops, the inspectors. That is where the work is to be done and that's where we ought to have the majority of our work force. Out there actually doing the work and not sitting back in some ivory tower making decisions and writing up testimony that just skirts the problem.

The front line inspectors should be empowered with strong authority and given support by agency management to exercise the authority, and these inspectors can tell you horror story after horror story after horror story of finding problems and all it takes from the plant manager is a call to the supervisor and the supervisor will override him. There is a fear factor among this group.

I met with about 150 of them about four weeks ago and talked about the whole problem. They took an hour and a half of time and they just kept coming back, well, what can the union do if we really reveal this problem out there? What can the union do to protect us because we know we're going to lose our jobs and we know we're not going to get promoted and we know we're going to get transferred where we have to move 200 miles. We get on the list if we really hold the line in our role, which the law says we're supposed to do.

This agency does not stand behind these inspectors out there, Senator, and that needs to be dealt with.

New and approved inspection procedures should be additions to the onsite inspection process and not used as an excuse to replace or weaken the process.

Mr. Chairman, I could take a lot of time, but I've pretty much said what I think I want you to understand where we're coming from and where the troops are coming from out there, and we would be glad to answer any questions you may have at the point in time you want to do that.

Again, we thank you very much for the opportunity to present the views of the guys that are trying to do the job.

Senator LEVIN. Thank you, Mr. Blaylock, very much.

What we'll do is hear from all of our witnesses and then ask questions all at one time.

Our next witness is Mr. Vernie Gee from Gardenia, California, who is an inspector for the Food, Safety and Inspection Service.

Mr. Gee, thank you for being here. We know you came, I guess, all the way from California last night.

## TESTIMONY OF VERNIE GEE, INSPECTOR, FOOD, SAFETY AND INSPECTION SERVICE, USDA, GARDENIA, CA,[1] ACCOMPANIED BY THOMAS DEVINE, LEGAL DIRECTOR, GOVERNMENT ACCOUNTABILITY PROJECT

Mr. GEE. Mr. Chairman and Members of the Subcommittee, thank you for inviting my testimony today.

My name is Vernie Gee. I am a GS-7 Level 10 meat and poultry inspector in the Long Beach area office, Food Safety and Inspection Service [FSIS] United States Department of Agriculture [USDA].

I've been a USDA inspector on the kill floor for meat and poultry, primarily beef and pork, since March 3, 1968.

I am accompanied by my counsel from the Government Accountability Project, Mr. Thomas Devine.

For many years I have been challenging filthy conditions and diseased carcasses at meat and poultry plants that received USDA approval for their products. For too long it has been a lonely struggle.

Thanks to the support of the media and of Congress the struggle to defend basic sanitation standards and public health in the meat and poultry industry isn't as lonely as it used to be.

I am afraid, however, that the public may get the wrong impression that the problems have been solved. Over the last year the USDA has claimed that management deficiencies in Southern California have been largely solved.

It is far too early to pat ourselves on the back. It's like we have run the first few yards of a mile, dropped out and patted ourselves on the back for a good race.

I told the review team last year of the ongoing problems in Southern California. Unfortunately, the review team didn't include my disclosure in their statement. As a result, the problems are continuing.

Today I want to share with you the type of public health threat that the Department of Agriculture isn't telling the public about. I will not discuss major policy issues. My testimony will be about problems I have seen as an eyewitness and that I told the review team about.

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[1] See p. 146 for Mr. Gee's prepared statement.

One result of personnel cuts is that we can't look at the meat the way we used to. An example involves Acceptable Quality Level, AQL checks at the end of the inspection process [AQL] is designed to learn if we have missed a significant number of defects in the carcass-by-carcass inspection.

If we find too many errors in the sample, the whole lot has to be reworked. In the past we could conduct these AQL checks every day. Due to personnel cutbacks, now the company usually does it.

To show these effects, over the last year I am not aware of the companies rejecting any lots in AQL tests at plants where I worked. I personally have found plant officials falsifying the AQL reports. I personally double checked some of the companies 'results and have seen defects such as foot-long abscesses in the carcasses that are filled with greenish pus.

Depending on the condition of the beef, these types of abscesses are on up to 10 to 30 percent of the carcasses in lots approved by the companies. I've watched plant officials skip steps in the AQL reinspections and then fill in results on the AQL for checks they did not make.

The second area involves ongoing sanitation breakdowns. To put it simply, in the last year the flies have been getting meaner, the roaches fatter and the rats bolder. There are still holes in the roofs at some plants, so that when it rains the rainwater falls on and soaks the products, which still go out to the public.

I regularly see examples of contamination in mareguts, or beef intestines, which are approved for sale to the public despite having fecal contamination that hasn't even been flushed out. I estimate that the fecal contamination rate on mareguts is near 100 percent of what USDA has approved as edible products.

Sanitation records are falsified to indicate that problems have been solved for sanitation, although the equipment is still rusty, the plants still use worn metal tanks to store their product, and rely on rusty rollers and equipment that routinely has contact with the product. Some of the plants use the same oil on their rollers for months, although they have certified they took corrective action.

In many instances, the plant workers themselves may be carriers of filth. I regularly see pigeon droppings tracked around the building, a product sometimes falls on the floor and picks up germs from the droppings. Workers at the plant seldom keep their hands clean, and since many of the workers are aliens who don't have health cards, I am concerned what type of disease they may bring to the process.

The third management problem is inconsistent enforcement of USDA standards. One reason is that the veterinarians seem to have different laws for different plants. With respect to suspect tuberculosis carcasses, for example, when inspectors see lesions we are supposed to immediately identify the carcasses for the veterinarian to send it in and best tested. The carcass must be retained and the test conducted. Some veterinarians actually honor these standards. The veterinarian in the room I now work, Dr. Herrera, sends in for testing between 90 and 100 percent of the TB-suspect carcasses that I identify. USDA personnel, however, have told me that even this spring other veterinarians frequently refused to send in samples for testing.

The same inconsistencies apply to enforcement of the sanitation laws. For example, while a circuit supervisor may literally nitpick at one plant, the same supervisor will allow rusty rails in the cooler, green and black molds in the walls, or holes in the roof at other plants.

A third aspect of the management breakdown involves training. Newer inspectors haven't been taught what the symptoms are of diseases that are forbidden from going out to the public. Over the last years I regularly have seen inspectors miss the symptoms of measles, tuberculosis, cancer, pneumonia, arthritis, jaundice, septicemia, drug lesions indicating injections of chemicals and even cadavers, beef that were dead before they were slaughtered.

I know the problems are due to the poor training because the inspectors come to me and ask what are the spots, abscesses, swollen joints, lungs with mucus, watery tissues or discoloration areas. They ask what is it and what does it mean.

Another example involved mareguts. Inspectors have not been adequately trained to check for parasites in these intestines, which are approved anyway for public consumption. I regularly have found instances over the last year where parasites in the mareguts were missed.

Although most of the publicity involves beef and poultry, there are similar problems for pork. For example, many of the diseases that I have just listed are missed for pork as well. The products, nonetheless, are approved for the public to eat.

USDA inspectors regularly miss parasites and degeneration in the kidneys of swine, and the lack of sanitation is inexcusable. Almost 100 percent of the time during slaughter of swine, kidney urine drips onto the carcasses, pieces of lung have been left in the diaphragm and the rib cage. I also see adhesions—dirty inflammation that is left after we have gotten rid of the pus from the abscesses.

It has gotten so bad that urine-soaked fat from the hog's diaphragm is pulled from the carcasses to be used for cooking oil, even before the rest of the carcass is washed.

What's behind this sorry record is lack of management support for the veterinarians and the inspectors who defend the public.

Personally, I have been fortunate recently to work under veterinarians who support me against harassment from the plants. That hasn't always been the case. I am sorry that now these same veterinarians who have shielded me from harassment are getting it even worse from USDA management.

To illustrate, four veterinarians in the Southern California area who have reputations for supporting their inspectors against company harassment are now expected to be fired. I would like to talk about one case study.

Dr. Herrera is an honest veterinarian who has stood up to pressure and enforced the law for the last 20 years. Until recently he consistently had excellent performance appraisals. I would like to discuss a few examples of plants that he cleaned up in the 1983–84 time period to show the type of work Dr. Herrera does.

At one facility, for example, when he arrived there were many roaches in the Government office. You could open your desk and four or five would come out. There was rusty equipment, cracked walls, filth and rust getting into potable water used in the chill tanks to wash chickens. There was even a big hole in the wall that was so bad the bees had made a beehive inside the poultry plant and the paint was peeling all over.

Although management complained, Dr. Herrera stuck to his guns. The management reaction to Dr. Herrera's effort at these two plants was interesting. The predecessor who had left behind those problems and was promoted to circuit supervisor got a cash award. Dr. Herrera got nothing except criticism that he hadn't cleaned them up fast enough.

Last July Dr. Herrera arrived at the plant where I am currently assigned. When he came the plant was known as a problem facility. There were cracks in the floor, no overhead cover to serve as a roof in the equipment cleaning room, paint and loose plaster all over the place, condensation over the electrical tenderizing machine, rusted doors, no rack for dry storage and not even a hot water hose to clean the split saw after it touches condemned carcasses. There were no screens for the windows, which allowed flies to come in. There were rusty light fixtures, and the coolers and the drains were backed up daily. The beef carcasses were touching the rails and the containers were not marked to distinguish between edible and inedible products.

Dr. Herrera has made major efforts to solve all of these problems. You can't make a new plant out of an old one, but I would estimate that this plant is at least 50 percent more sanitary than ever before.

He started using swab tests to check for antibiotics and other illegal drugs——

Senator COHEN. Mr. Gee, could you perhaps just move on and talk a little bit about what the reaction of management was to what he had discovered. You don't have to read it. You can just tell us in your own terms. I think that's much better. You just tell the nature of your relationship and what you saw and heard. You don't have to read it. We've got your statement for the record. But tell a little bit about what you observed in terms of management's reaction.

Mr. GEE. OK.

Senator COHEN. Just tell us in your own words. Don't read it. Just talk about management's reaction. We all like to have that paper there. I know I like to have it myself, but it's better if you just talk to us.

Mr. GEE. Well, due to all the controversy involving Dr. Herrera, he was written up four or five times by the circuit supervisor and criticized for doing a poor job, although the other veterinarians that worked with him or behind him were never criticized.

Dr. Herrera was given a letter that his performance was below par, although Dr. Herrera had received awards, TB awards, certificate of merit awards and all the other awards for the last 15 or 20 years. Now this type of deal came down on him.

Well, I worked at the plant and I know that Dr. Herrera is doing a good job, and that's it.

Senator COHEN. Basically he was told that his efforts were unsatisfactory and he could be fired as a result of it.

Mr. GEE. Yes. He indicated to me that his supervisor was thinking about having him eliminated from the service.

Senator COHEN. Tell us a little about what you see as corruption within the system, within USDA and the inspection itself. What's going on within the system itself in terms of inspectors and who is being promoted and who isn't and whether or not they are having relations with management.

Mr. GEE. It's still the buddy system as far as promotion goes in the USDA in my area. Things have gotten better since the review of 1986, but not much because we don't have the personnel to even do the job in USDA in the City of Los Angeles.

Senator COHEN. In your testimony, for example, you say that we shake our heads when we hear of instances such as a supervisor who called in sick but was seen by an inspector's wife working the same day at a local veterinary clinic.

Mr. GEE. Yes. One supervisor who has criticized other inspectors and veterinarians under her control or command has written him up in the past about being off sick and so forth. Lately we found out that she called in sick and we found out that she was working at a veterinarian clinic. There are two veterinarian clinics that I found out that she was working at, although she was off work sick.

Senator COHEN. What is your reaction to the USDA stamp that says "Inspected and Approved"? What do you think about that?

Mr. GEE. It depends on the inspection that is done for that stamp. I don't agree with the type of USDA inspection in the past, because for all the product that has been inspected at places where I'm assigned we were very low on help. If you don't see what's going on, how do you know that the product is wholesome, and if it's not?

Senator COHEN. Do you want to replace that with a stamp that says "eat at your own risk?"

Mr. GEE. Yes, I would, due to the circumstances and what it's leading up to now, I would say that it should be considered.

Senator COHEN. Thank you very much.

Senator LEVIN. Are you done with your statement, or with your testimony?

Mr. GEE. Yes.

Senator LEVIN. Okay. While we're stopped with you, why don't we ask a few additional questions of you and then we'll go to Mr. Leonard.

You've testified to the following in your written testimony, that you personally found plant officials falsifying the acceptable quality level reports.

Can you tell us what happened when you found that? I mean was that then processed as a complaint against them? Was it dropped? What happened when you found that?

Mr. GEE. Well, the AQL program was designed to spot check beef. When it was first inaugurated we checked beef every day. Later the agency revoked that and said that we would only monitor it one day a week where we would take the actual tests, and the company would do it the other four days of the week. So the company was not to know what day I was to come in to do this testing.

Senator LEVIN. You were doing random checks on a beef processing company at this time?

Mr. GEE. Yes. These are slaughter houses.

Senator LEVIN. You were doing random checks on beef slaughter houses at a certain time.

Mr. GEE. This is AQL. This is the AQL that was inaugurated for that purpose for slaughter houses only.

Senator LEVIN. Okay. So now what happened? You came there during a random check and you found that the plant official had falsified the report?

Mr. GEE. Yes.

Senator LEVIN. And then what did you do?

Mr. GEE. I immediately reported to my supervisor and he then imposed a penalty of 15 days that the inspector would do the inspection. After the 15 days he would either take them off the penalty and they would continue back the way they were.

Senator LEVIN. Was that handled properly by your supervisor?

Mr. GEE. Yes, according to the rules or information that he got from his supervisor. That was the plan that had been working all this time.

Senator LEVIN. Do you have an objection to the direction which he got from his supervisor?

Mr. GEE. Yes.

Senator LEVIN. What was there about the direction that he got that you think was wrong?

Mr. GEE. I object due to the fact that the company that was involved had been falsifying these documents all along. They were not doing the AQL as they had promised USDA. We had a chance to monitor all the records that they had. When I checked on those records at least four or five times, they were not done and they were not complete. In some cases there were no markings whatsoever put on those forms.

Senator LEVIN. Do you feel then that they were let off too lightly; is that the bottom line?

Mr. GEE. Yes.

Senator LEVIN. And is that because of the direction that your supervisor got from his supervisor?

Mr. GEE. That's it.

Senator LEVIN. And that direction was what? What was the specific direction that your supervisor got?

Mr. GEE. When he imposed the penalty on the company, he had to report to his higher superior that he was imposing a penalty, and he would also put that in writing. And after then it would go for 15 days. Once the plant was off the penalty, it would be put back to business as usual. That's the way it works. That's the way the USDA system works.

Senator LEVIN. Did you ever do a random check on that company?

Mr. GEE. Yes, I did that.

Senator LEVIN. And did you find that they continued to falsify those reports, or did they correct it?

Mr. GEE. Yes.

Senator LEVIN. Which?

Mr. GEE. They were not correct.

Senator LEVIN. They were what?

Mr. GEE. The reports that the company did were not correct.

Senator LEVIN. Even when you went back?

Mr. GEE. Even after I went back.

Senator LEVIN. So after they were penalized once, too lightly as far as you were concerned, you went back on a random check and you still found incorrect reports?

Mr. GEE. Yes, incorrect reports.

Senator LEVIN. And then did you report that to your supervisor?

Mr. GEE. I reported that to my supervisor.

Senator LEVIN. And what did he do then?

Mr. GEE. I got assigned some place else. I don't know what happened after that.

Senator LEVIN. You got assigned some place else.

Mr. GEE. Yes.

Senator LEVIN. And do you believe it's because you were insistent upon pressing the case against that particular plant?

Mr. GEE. No. Food inspectors get transferred every 10 weeks, and at that time my 10 weeks assignment was up. This happened on a Friday and I was transferred to another plant on Monday.

Senator LEVIN. So you don't know what happened the second time.

Mr. GEE. I don't know what happened here.

Senator LEVIN. Okay.

Senator Pryor do you have questions just of Mr. Gee. We kind of focused in just on his testimony, and then we'll go to Mr. Leonard.

Senator PRYOR. Yes, not a long question.

Mr. Gee, I just want to ascertain one or two things.

First, I guess you would be a whistleblower. Now this Committee applauds you and we want to do everything we can to protect people like you who, if you think there is a problem, come before the proper Committee and let us know. I say that with all good intentions.

Also, I'm a little confused about one thing. I've been in and out of the room. Are you an inspector in a meat or a poultry plant, a red meat plant or a poultry plant?

Mr. GEE. I'm an assigned inspector in a red meat plant.

Senator PRYOR. Not in a poultry plant.

Mr. GEE. Not in a poultry plant.

Senator PRYOR. And most of the problems that you are speaking about this afternoon, I started to say this morning, but this afternoon, they occurred not in a poultry plant but in a red meat plant; is that right?

Mr. GEE. Mostly in a beef plant and a pork plant.

Senator PRYOR. Pardon me?

Mr. GEE. Pork and beef.

Senator PRYOR. I see.

Senator COHEN. Any lobster plants? [Laughter.]

Senator PRYOR. I think we've gotten Senator Cohen's attention about lobsters, Mr. Gee. [Laughter.]

Senator COHEN. You've certainly got my attention because I want to go on at some length to promote Maine lobsters over this—— [Laughter.]

Senator **Levin**. We are trying to keep commercials out of this, all kinds. [Laughter.]

Senator **Pryor**. I think that's all the questions I have.

Thank you, Mr. Gee. And by the way again, thank you for coming forward.

Senator **Levin**. We might say, Mr. Gee, while we're talking about whistleblowers, that there is pending a whistleblower's protection act which is going to increase the protection which we do provide to whistleblowers which is now inadequate in many ways so that more people will be willing to come forward and tell their stories.

I know this Subcommittee and indeed this full Committee is very much involved in that effort to try to improve the protection that we do give because there are not enough people who are willing to come forward. They are afraid, and we're glad you are not afraid, and we particularly appreciate your willingness to come forward.

Now we're going to move to——

Senator **Cohen**. May I just ask a quick question?

Senator **Levin**. Yes, of course.

Senator **Cohen**. Mr. Gee, have you ever seen an example of a plant turning itself in for violations?

Mr. **Gee**. I didn't hear the question.

Senator **Cohen**. Do you know of any plant in your experience that has turned itself in voluntarily for violations?

Mr. **Gee**. No, never. [Laughter.]

Senator **Cohen**. Does a company know when a Government inspector is going to come in for an AQL test?

Mr. **Gee**. They are not supposed to know that.

Senator **Cohen**. Do they know?

Mr. **Gee**. Well, yes and no. If you catch a plant trying to get away with something, the plant owner figures that he can clean the beef before you get there. Well, just say, for instance, that you don't do this on a Monday. Well, he would know and he's waiting for you on a Tuesday. And if you don't do it between Tuesday and Thursday, he knows you'll have to come Friday. And this is what that they are on the lookout for.

Senator **Cohen**. Mr. Chairman, could I indulge your patience and that of Senator Pryor just to ask perhaps one question to Mr. Devine who represents whistleblowers?

Senator **Levin**. Yes.

Senator **Cohen**. Because I may not be able to stay for the completion of the testimony.

Senator **Levin**. Of course.

Senator **Cohen**. Mr. Devine, would you comment about your experience with representing whistleblowers from the FSIS? Is this atypical? Is Mr. Gee unusual? Is he a rare occurrence and not reflective of what kind of problems you face with representing whistleblowers?

Mr. **Devine**. I'm very disappointed that his experiences have not been atypical. They have been representative. In fact, Mr. Gee has probably done a little bit better in terms of harassment over the last year, I think because he was on national television and the companies have eased off on him a little bit since then.

In our experience there has been a real disrespect for the free speech laws at the Department of Agriculture. One of my first clients there was a gentleman named Dr. Carl Telleen who received a reprimand for violating the code of ethics. His misconduct was that he wrote an article warning the public about eating fecally contaminated food products, the same thing that the NAS warned the public about this week. And the USDA responded that since the code of ethics prohibits any Government employee from taking actions that would adversely affect public confidence in the integrity of the Government, Dr. Telleen was clearly engaging in an ethical violation by warning the public about food poisoning.

I think this is like saying Paul Revere was a traitor when he said the British were coming. It just doesn't make sense.

Even recently the USDA inspectors at the Simmons facility have been put under a gag order not to talk about the corrective action there. There is a real unwillingness by this agency to let the facts get out to the public.

We saw that in 1981, when review team members started resigning because their reports were censored when they talked about contamination at beef, pork and poultry plants.

We saw that in 1985 in Southern California when one of the review team members later stated it in an affidavit. They took out the information about contaminated products getting to the public, because that would devastate the agency's credibility with the public.

Senator, the problem of whistleblower protection and reprisals at this agency is part of a larger problem. We believe that telling the public the whole truth is a public safety issue, and until USDA accepts that premise, the agency's management approach to public health is going to be a public health threat.

Senator COHEN. Thank you very much. I tend to agree with you. It sounds more like a Soviet system where if you criticize the Government you can be thrown in jail. Here they're saying that you're violating the official ethics of the agency by going public with some serious complaints.

So I think it's something that Senator Pryor I know, other than this issue per se, is very interested in as is Senator Levin. We have been very vigorous in trying to promote legislation dealing with the protection of whistleblowers.

Senator LEVIN. If I can quickly add a little plug since we were involved in some commercials here this morning; Mr. Devine has been very helpful in working with us on that whistleblower protection act as have a number of other people here this morning, and we thank you for that assistance.

Senator PRYOR. And I am also a supporter of Senator Levin in this legislation.

Senator LEVIN. Senator Cohen also is a co-sponsor of it. So we all really are in agreement on this, that we have got to protect people who come forward, and we are not going to tolerate any agency retaliating or taking any action or not promoting people because they speak the truth—when the agency says, well, if you speak the truth that might hurt the agency. I mean that's the whole point for protecting whistleblowers is to get them to speak the truth even though it does hurt the agency. We are not interested in the agency's reputation if it doesn't deserve a good reputation. We are interested in protecting the reputation if it deserves it, but not if it doesn't.

That is our interest and it is kind of in a way a separate problem, but it's very much related to the issue here this morning.

We again now probably should move to Mr. Leonard and then we'll come back to the other witnesses if you can stay for questions.

Mr. Leonard.

## TESTIMONY OF RODNEY E. LEONARD, EXECUTIVE DIRECTOR, COMMUNITY NUTRITION INSTITUTION [1]

Mr. **Leonard**. Thank you, Mr. Chairman.

I will summarize my summary for you so we can get on.

I served as the Administrator for the Consumer and Marketing Service from 1967 to 1969. That is the agency or was the agency at USDA responsible for meat and poultry inspection.

When I left in 1969 we had a renewed legislative mandate for risk avoidance. We had 10,000 inspectors on staff. We had an adequate budget provided by Congress and we had merged meat and poultry inspection to indicate to the industry that the Federal Government was in control of food safety.

That situation has changed dramatically in the past 20 years. Congress no longer sets food safety policy. Meat and poultry inspection is understaffed and underfunded. There are only 7,000 inspectors at the present time to handle nearly twice the workload as compared to 1968.

Meat and poultry inspection is really no longer in charge of food safety. As a consequence, the incident of food poisoning caused by salmonella, for example, has more than doubled.

Since 1960, according to the NAS report that came out this week, the number of cases of food poisoning attributed to salmonella has increased from 8 per 100,000 to 19 per 100,000 in 1984. Most of the increase occurred after 1977 when USDA authorized feces to be washed from poultry carcasses.

Preventing contact with salmonella is the single most important task in processing the National Academy of Science report said. Now the industry says that this scandal is the fault of the consumer. Consumers should wash the poultry, clean up carefully in the kitchen and cook poultry meat thoroughly. Blaming the victim is an arrogant diversion and it's also a deception.

Studies document that salmonella cannot be controlled when it enters the kitchen on poultry. I would be happy to share that study with the committee.

As has been discussed here already, the reports of food poisoning that come to the Government are reports of contamination at commercial locations, and the reason for that is simply that when it occurs in the home people can't believe that they have been poisoned by food that has been approved as safe by the Federal Government.

Now I don't understand why industry cannot control microbial contamination. The poultry industry is the most highly integrated meat processing industry in the United States. Three firms control most of the output, and 45 firms account for over 90 percent of production.

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[1] See p. 173 for Mr. Leonard's prepared statement.

Now how can an industry that can control growing, processing, packaging, merchandising and marketing say they cannot control bacterial contamination. They can, but they won't.

This simple fact more than anything else defines the policy issue for Congress and the management task for the Executive Branch who is in charge of food safety.

Now the heart of the matter is a policy dispute. It's a question of values and priorities. The industry and the Department of Agriculture and their consultants tell us the issue is technology and science, but that is not true. USDA says the problem can be solved with a new procedure, that is with a process they describe as risk assessment.

Risk assessment as it is currently proposed is voodoo management based on pseudo science. The GAO report indicated that USDA lacks the data now to management a risk assessment system. That's exactly what the National Academy of Science report said, that the data is not available to do risk assessment and that it will take 10 to 20 years before the data is available and we understand how to use it before we can implement a system like that.

The policy question for Congress is whether to continue to employ risk avoidance as the law requires now or to adopt risk assessment as USDA and the industry wants. Risk avoidance requires the Federal Government with the cooperation of industry to prevent hazardous products from entering the food supply. Risk assessment under USDA's definition means allowing hazardous products in the food supply at a level of risk that the Government will determine for us.

Risk assessment shifts responsibility for safety to the citizen and it changes the role of Government from an active or protective stance to a passive stance. Under risk assessment the Government tells consumers the nature of the risk, and if injury occurs, then it is the fault of the consumer or the victim for taking that risk. It is blame the victim. Risk assessment is a phrase that cloaks the real intent of the action, just like the phrase "special treatment" was used by the Nazi bureaucrats to describe the program to slaughter Jews.

Continuous inspection was and is the only system to carry out a policy of risk avoidance in industry where slaughter and processing occur at many scattered locations. It works because control of food safety is decentralized through public employees who carry out a public health mission. At the same time plant employees are carrying out a profit mission. Being there as a public symbol keeps the plant honest.

Inspectors and veterinarians do for you and for me and all consumers what you and I would do if we could inspect the meat and poultry and food products that we purchase and consume.

When Congress approved last year the legislation to eliminate continuous inspection of meat and poultry product processing, you gouged out my eyes. Without the inspector the consumer is blind.

Continuous inspection is the management system to carry out risk avoidance. It works if it has the right tools. That includes a clear definition of what its mission is. It has a management that is dedicated to carry out that mission. It has in-service training.

There is research on animal and poultry diseases that are transmissible to humans and on pathogens on their detection and control. There is public education and there are other tools, including the NAS concept of risk assessment if it can be successfully translated from theory 20 years from now into practice.

We have allowed risk avoidance to degenerate and decay as a public health policy and program. Consumers are ready now to help begin rebuilding an effective and well-managed inspection program. For us it's a matter of health and survival.

Thank you.

Senator LEVIN. Thank you, Mr. Leonard.

First, Mr. Blaylock, let me ask this question of you and I'm going to ask the other witnesses basically the same question. It has to do with whether or not we should change the way we inspect, the mechanism that we inspect, for instance, poultry, and that was the example we used earlier, coming down a line. We now visually, most of the inspectors are looking visually at each bird, 35 a minute as I remember, two inspectors looking at 70 birds per minute.

Now the question is whether or not those inspectors would be put to better use if we put them back into the production line which means looking at the washing process, testing feed and examining the handling of poultry from start to finish?

We had testimony earlier that it would be better in the eyes of both a study and our Department of Ag representative if we used the same inspectors we've got now—this isn't different people—but took them away from this visual inspection of the bird to see if a wing's broken or if it has a bruise, which is okay esthetically, but doesn't do a lot for health, and move those same people back into a more systemic investigation or inspection, and I'm wondering whether or not you have any comment on that suggestion which we do believe will be soon forthcoming?

Mr. BLAYLOCK. Mr. Chairman, of course I'm not in the plant, but I do have a comment and then I'll let Jim Murphy who works at plants answer in more detail. There are certain diseases that you're trying to detect that can be detected by visual inspection, and if the scientific community comes up with a process to detect those diseases absent a visual inspection, then it's fine. So far nobody has done that.

What you're saying is let's check the feed, as an example, for the chemical problem and let's do sampling for the salmonella, but then you have other diseases and other contaminations that exist. As an example, how do you check to see if that carcass has been contaminated by fecal matter? Somebody has got to look at it.

Senator LEVIN. The proposal we understand we'll be getting from the FSIS is that there be a random sampling of that, of the visual, that at one time or another an inspector come and make a visual sample for that type of a problem, but that we spend more of our resources on the systemic problem to get at the salmonella problems since you don't get at salmonella by this visual inspection at all.

Now we have limited resources. Assuming that we got 2,000 inspectors looking at poultry, or whatever the figure is. We now have half to three-quarters of them doing a visual inspection, which apparently the one study says doesn't really get to the source of a problem.

My question is given the limited resources, do you know whether you would support or object to the shift of some of those inspectors to the systemic investigation rather than to the visual inspection?

Mr. **Blaylock**. Mr. Chairman, let me deal with the resources and then let Jim talk to you specifically about it. But as far as the resources, what I have said and what we're saying to you, to this committee, is you need to make a determination on what resources are needed out there to protect the public based on the answer to the question, and I don't know the answer.

But let me just ask you a question. An inspector is checking every 20 birds, we'll say, in this process that you're proposing or has been proposed. Do you want to eat that in between bird that nobody looked at that may be contaminated with fecal material? How do you make sure? I mean just like the occasional visit to the plant. What happens during the time the person is not there?

Senator **Levin**. I would be happy to try to answer that question. My offhand reaction would be based on just what I've heard this morning and no more, that if I thought there was a greater likelihood that I would get sick if I had a person doing a visual examination than if I had that person doing the systemic examination, I would rather do the visual one myself when I get the bird to see if the wing is broken when I buy it.

Now I would rather have both. I would obviously much rather have the visual examination and the systemic evaluation, but that's not my question, because that's the easy answer and that's not what we're dealing with because we've got limited resources.

The question is if we've got the 2,000 inspectors out there, is it better to move some of them to a systemic evaluation to try to reduce the incidence of salmonella, for instance, or is it better to keep them going on this 30 birds per minute visual inspection? That's the question. I'm not arguing it because I don't know enough about it, and I hope some day to.

You're going to answer that, Mr. Murphy?

Mr. **Murphy**. What we originally went on the line for and inspect for is diseases such as Leukosis, which is cancer, paracyculytis, which is a pneumonia like symptom, cynovitis, an inflammation of a joint and you septicemia and toxemia, et cetera.

Now last year these 2,000 inspectors condemned, I understand Dr. Houston I think said 55 million of these chickens for these diseases last year alone. Now we used to condemn for contamination. Then we went to trimming and then we went to washing. Today we are washing this fecal contamination out.

This salmonella is a serious problem, but I just feel if I had to choose between feeding my family a fully cooked chicken that had salmonella versus a fully cooked chicken that's full of cancer, I'll take the salmonella.

Senator **Pryor**. I hope that's not our only choice. [Laughter.]

Senator **Levin**. He presented a choice which I don't think is a choice, but if it is, I think I agree with you.

Mr. **Blaylock**. What he's saying, Senator, is there are other diseases we're looking for and nobody has come up with a process to make sure we're detecting those. There are certain things you can detect by seeing. Well, does it make more sense to run through some laboratory type sampling test, which is complex, and is just like the salmonella thing. That takes four days roughly we're told for them to check that out and see if that bird was contaminated. But we do know that most of the salmonella seems to come from the fecal contamination.

So if we can in a visual process, you know, reduce that risk, and we're never going to be able to guarantee a hundred percent, but if you reduce that risk by simple visual process, then it makes sense to stay with the visual process. If there is some other process that somebody comes forward with, and nobody has yet.

Senator LEVIN. I think the National Academy of Science is proposing that we move to a different kind of inspection, that we have random inspection in order to make sure that the visual inspection is carried out properly by the plant, that we go randomly and make sure that the plant is continuing its visual inspection of its own chickens, and that in order to get to the salmonella problem we use our Government resources to get to the systemic causes of that salmonella. I think that's the issue.

Your testimony, Mr. Blaylock, is that you would disagree with the NAS I take it on that issue.

Mr. BLAYLOCK. I'm simply saying they do not come forward with a solution. We have scanned that report. It's just been out a couple of days.

Senator LEVIN. It seems to me that one of the key issues that Congress is going to face, not necessarily this Committee, but Congress is going face is whether or not we are going to change that requirement that every product and every carcass be visually inspected in order to put our resources into a more allegedly profitable kind of inspection, and I say allegedly because I haven't reached a conclusion that it's more profitable frankly.

Mr. BLAYLOCK. It very well may be.

Senator LEVIN. But it may be, and I think that is going to be at least a basic issue which comes out of these hearings, and this committee will be reaching I hope some kind of an assessment on that after we've heard back from the FSIS and after we have had a chance to read the National Academy report.

Mr. BLAYLOCK. I'll be more than glad to. Could I make a point that ties somewhat to the whistleblower thing a while ago and this random inspection.

If the Department had sufficient penalty and if a plant was found violating the standards and the process, and there are those out there that will and those that won't, but if they are found to be doing that, if there was sufficient penalty there and not just the fact that well an inspector is coming back in the plant for 15 days, you know, so that nothing changes.

We've seen a constant practice of dual standards, you know, since I've been involved over the 20 years with these people. As an example, if an inspector violates some of the rules by saying taking a gift from the company, and that goes on in these situations from time to time, then the inspector is fired and very well may do time. There is nothing done to the company.

They will simply take the individual of the company who was involved in the process and move him to some other position and then the company goes right on. If there was sufficient penalty during this in between time to make sure that the fox really was guarding the henhouse, then you would have a much better system.

I said I wanted to relate that to the whistleblower's things. You well know that I was very much involved in the development of the Civil Service Reform Act and we really worked hard to get a whistleblower's protection in that. Everybody agreed that workers in the Federal system, if they could come forward and reveal waste, graft, you know, all of those problems, then it would be in the public interest.

But then when they wrote the regulations, and you said you all are looking at how to strengthen that, and I applaud you for that and we sure will work with you to do it——

Senator COHEN. You have indeed been working with us and we appreciate it.

Mr. BLAYLOCK. But when they wrote the regulations they immediately put the employees on trial. Now we've processed a bunch of those cases ourselves, and I can tell you it's a totally ineffective thing. No worker is going to come forward unless he has suicide tendencies because immediately if you look at the investigation process under the current rules as you all are looking at this thing because there is not an investigation by the general counsel. They hold a hearing, and in that hearing the worker is put on trial to prove his case, and very few come out of that, by the way. Very few come out of that, you know, even moving to the second level.

Then he's got to prove his case again. There is not an investigation in that process today. That investigation consists of that employee being put on trial to prove his case. So I hope you can look at that piece of it very closely. You have no Federal employees coming forward today blowing the whistle, or very few of them, like I say, unless they have suicidal tendencies.

Senator LEVIN. Mr. Blaylock, one of the things that is in our bill indeed is to change the role of the Office of Special Counsel into an advocate for the employee rather than their current role.

Mr. BLAYLOCK. Well, you have my support in that, including his responsibility under the Hatch Act.

Senator LEVIN. We're hoping to get that bill marked up this year, as a matter of fact. We think we can do it this year. We weren't able to do it last year or the year before, but we're optimistic we'll make progress on it.

Senator Pryor.

Senator PRYOR. Mr. Blaylock, we've known each other, I guess, for 20 years or more, and I don't want this hearing to end without correcting the record. I make reference, Mr. Blaylock, page 6 of your full statment which I assume you're going to put in the record. I quote from your second paragraph.

> We are attaching an affidavit of an inspector who attempted to stop a poultry line because rust was falling from the ceiling onto the chickens only to be overruled by his supervisor.

Then I look at the affidavit that you submit of Mr. Seven Heuton, the inspector. The fifth paragraph, says "My job is to conduct post-mortem inspections on hog and cattle carcasses."

This man was not in a poultry plant, and these are not chickens.

Mr. **Blaylock**. Yes, sir.

Senator **Pryor**. And I've known you long enough to know that you know the difference between chickens and hogs. I just wanted to make that point, and I want the record to reflect that either you do away with the affidavit, or keep that affidavit, but I don't think it should be referred to as a poultry plant.

Mr. **Blaylock**. I appreciate you bringing that to our attention. That is purely a typo. That person is in a red meat plant.

Senator **Pryor**. Pardon?

Mr. **Blaylock**. That person is in a red meat plant. That's a typo in the testimony. Thank you for bringing it to our attention.

Senator **Pryor**. Okay, fine.

Now I may have another question or two. I guess as a panel we can kind of shift around here.

Senator **Levin**. They are all fair game here now, Senator.

Senator **Pryor**. Okay. I want to ask a question or two to Mr. Leonard.

Now, Mr. Leonard, you were the Administrator. I guess you would have had the job that Dr. Don Houston has now. Would that be a fair comparison?

Mr. **Leonard**. When I was the Administrator of the Consumer and Marketing Service it included meat and poultry inspection, the food programs and the marketing programs. In fact, I brought Don in from the field when I was Administrator of C&MS.

Senator **Pryor**. Now we have asked several of the witnesses this morning to lay their credentials out for the record. What is your background and what is your training?

Mr. **Leonard**. I have a degree in economics from Kansas State University. I came to the Department of Agriculture in 1960. I was the Press Secretary for five years. I was the Deputy Assistant Secretary for Marketing and Consumer Affairs for two years, and then took over as the Administrator for the agency for the remainder of the term.

After leaving Agriculture in 1969, I established the Community Nutrition Institute which is a non-profit consumer advocacy group where I have been Director except for a two-year period when I was appointed by President Carter as the Deputy Director of the U.S. Office of Consumer Affairs in the White House.

Senator **Pryor**. All right. Then you're not then a scientist nor a statistician, but you do have a degree in economics.

Mr. **Leonard**. I have some experience in statistics.

Senator **Pryor**. On page 7 of your statement you state, and I quote: "Poultry is no longer a wholesome food." Are you today saying that it was more wholesome when you were the Administrator?

Mr. **Leonard**. Yes. The condition of poultry in 1967 was better than it is now.

Senator **Pryor**. What do you mean better?

Mr. **Leonard**. The level of contamination coming out of plants at that time was around 25 percent. Today it's 35 percent.

Senator **Pryor**. Well, you are on record here saying, or actually on page 2 of your statement you say that 50 million of the 80 million U.S. food poisoning cases are "likely due to salmonella organisms in poultry."

Now where did this fact come from? Where did this come from? I've never seen this. In fact, the Center for Disease Control says this allegation is absolutely wrong.

Mr. LEONARD. That data is based on CDC data. Well, this is one of the problems we have in this whole area of trying to figure out can you do risk assessment in poultry. CDC will give you a private estimate that food poisoning cases, or cases from food borne illness run as high as 375 million a year. Other people will give you an estimate, as the National Academy of Science did in its report this week, of 4 million cases.

The Carter Center is going to publish a study in about a month or so where they will estimate the case level at about 8 million.

The problem that we're dealing with here is that any one of these levels is too high, and the reason that they are too high is that we are not managing the system as effectively as we should.

Senator PRYOR. You seem to be zeroing in, on poultry. The other part of your statement doesn't talk about anything other than poultry.

Mr. LEONARD. Yes, sir, and the reason that I'm zeroing in on poultry is that the proposal that will be presented to Congress when Don Houston testifies next month both in the House and also at the Senate Agriculture Committee will be to change the inspection philosophy of poultry. He will propose to go to a less than continuous inspection of poultry slaughter.

Now I don't want to zero in on poultry—there are problems throughout the whole meat and poultry inspection system. However, we have a legislative argument coming up, and Congress is going to have to make a decision. Are you going to continue to try to follow a program of risk avoidance, that is to say to consumers that the job of the Federal inspection program is to prevent hazardous products from getting into the food supply, or are you going to authorize the Department of Agriculture to estimate what a reasonable risk level will be and then let us decide whether we want to go ahead and allow contaiminated food into the food system at that level.

USDA is not proposing to change red meat slaughter yet. Last year they proposed and got through Congress legislation allowing less than continuous inspection of meat product plants. This year they are going after poultry. Maybe in five years they are going to go after red meat.

Right now the problem is can they adequately inspect poultry under the system they are proposing. They can't even adequately inspect poultry under the system they're operating today.

You and Senator Cohen are going back and forth about seafood and poultry. You can't even talk about having a Federal inspection program in seafood unless you also have a decent program in red meat and poultry. We have a crisis.

Senator PRYOR. Has your organization testified in favor of some type of an inspection program for fish?

Mr. LEONARD. There have been no hearings.

Senator PRYOR. Why are you so concerned? Fish have salmonella. I'm sorry to say all this without Senator Cohen here. I'm not trying to jump just on his home State, and I'm not doing that, but if an inspection is good for a chicken or for beef, isn't it also good for fish? That's my basic line of questioning.

Mr. **Leonard**. What I'm saying is that the issue that is before Congress today is will you go along with Don Houston's recommendation to ease off on poultry inspection, and that's why we are talking about poultry.

Senator **Pryor**. Are you alleging that he's trying to ease off on it?

Mr. **Leonard**. He's trying to reduce the level of inspection in poultry.

Senator **Pryor**. Why? What is the advantage to Dr. Houston or to the industry to have less inspection?

Mr. **Leonard**. Don has severe budget problems. Congress so far has not been willing to take this issue and ask what is an adequate inspection program going to cost. What they've said is——

Senator **Levin**. If I could interrupt you before Dr. Crawford leaves.

I did have an additional question for you in this area. Would you be able to stay just a few more minutes?

Dr. **Crawford**. I wonder if it would be possible to answer it now. I have a delegation from the Republic of Hungary waiting on me.

Senator **Levin**. Let me ask Senator Pryor if he would mind if I interrupted at this point?

Senator **Pryor**. Certainly, go right ahead.

Senator **Levin**. I asked Dr. Houston about this cutback in the work force of 400 people, and his answer was we've automated or technologically we don't need them given the kind of inspections that we now do, which is that visual inspection. So we don't need those 400 people.

Then when I asked him the question, are you going to recommend that we move to systemic inspection to summarize what it's all about rather than visual inspection, to move, for instance, 1,000 or 1,500 inspectors in the poultry area to a different kind of inspection, he said he thought he was going to recommend that.

My question is since you've got these 400 slots from Congress that are unfilled, why don't you use those 400 now for the kind of systemic inspections that you say are more important than the visual inspection?

Dr. **Crawford**. Well, the systemic inspections are in the development phase at the present time. I think the people at the table here have attested that we are not ready to do that at the present time. We need to ask for the authority to develop these technologies.

The Academy did indicate that we should go to this system, but they did not advocate any immediate scrapping of the old system.

Senator **Levin**. I think you're using some of your people right now in what I call systemic inspections.

Dr. **Crawford**. We are, and we are trying to develop what is called a third generation program. It would be more or less like this, but it's not ready yet.

Senator **Levin**. Thank you.

Dr. **Crawford**. Thank you, too, Senator.

**Mr. Leonard.** I was just going to conclude on the budget issue. It seems to me more appropriate to say what kind of food safety and food quality does Congress want and then how much is it going to cost.

**Senator Levin.** Do you have a comment on this issue as to whether we move to a different kind of inspection? Since I'm interrupting Senator Pryor, let me——

**Senator Pryor.** No, go ahead.

**Senator Levin.** Let me just ask you that question. We've had different opinions here this morning on a very critical issue. Are we going to stick with those 1,500 inspectors doing that visual 70 carcasses for two inspectors per minute, or are we going to move to a different kind of inspection with the same number of inspectors in the area of poultry? Do you have an opinion on that?

**Mr. Leonard.** I think you have to maintain a continuous inspection system, that is, you have to have——

**Senator Levin.** Visually.

**Mr. Leonard.** Visually, and it's more than just sitting there and looking at the carcasses.

**Senator Levin.** Well, without getting into details though, you would prefer maintaining the current type of visual inspection than you would to move, say, 1,000 or 1,500 of those folks in the poultry inspection area into this new kind of a systemic inspection on the grounds that the visual does not get to salmonella? Is that your position? If it's one or the other, keep the——

**Mr. Leonard.** No. I think you may have to do both.

**Senator Levin.** Well, you can't do both. I'm not going to let you off that easy because that's not the situation we find ourselves in in Congress a lot. We have to make some priority judgments. If you can't do both, would you shift any number to systemic or would you leave them on visual?

**Mr. Leonard.** I would leave them on visual.

**Senator Levin.** Thank you.

**Senator Pryor.** The National Academy of Sciences, Mr. Leonard, said this week that increased inspection would not reduce microbiological contamination. What evidence do you have to the contrary?

**Mr. Leonard.** Increased inspection that would restore the authority to condemn carcasses that have been fecally contaminated would do an awfully lot to lower the level of contamination.

What the National Academy of Science said was that fecal contamination is the single most serious problem in poultry today.

**Senator Pryor.** Can the human eye detect this?

**Mr. Leonard.** The human eye can see when a piece of fecal matter is on a carcass, and they took away the authority to deal with that situation. They said you can't cut it off any more, you can't condemn a carcass if the fecal matter is in the body cavity.

**Senator Pryor.** The inspector still has the authority to close down a line at any time they want. Isn't this correct?

**Mr. Leonard.** They have the authority to, but they are not encouraged to.

**Senator Pryor.** I'll take exception to that. I think that authority is there and I've seen no evidence to the contrary that they are not encouraged to do that.

Mr. **Leonard**. Senator, the Department has authority to clean up this whole situation. They don't need new legislation. They can do what they are proposing to do without asking Congress to take away the continuous inspection program. It's not a tradeoff. It's not one or the other. They've got the authority to do it now. That's what they're doing over there on the Eastern Shore. They are testing this out.

Senator **Pryor**. Let me switch, if I could, back to my friend, Mr. Blaylock, because I want to ask Mr. Blaylock about what his position is on increasing the number of bodies for inspection, the number of employees. Is that your position, that you want more employees in the inspection area? Is that correct, or do you want a different type of inspection?

Mr. **Blaylock**. What we're saying, Senator—we address that. We say the agency should be looking at getting more people on the front line rather than spending so much on the administrative and overhead positions. That's one point we made in the testimony.

And let me try to clarify——

Senator **Pryor**. You're talking about on-line inspectors now?

Mr. **Blaylock**. Well, let me try to clarify where we're at on the line, and I think it is a responsibility of this committee and the Congress to be satisfied, and if you look at the Academy report, and I know because I read through a piece of it last night, the Academy report says we need to go to an inspection process, a different process that finds, you know, that detects these new hazards that we have in the food chain, but they don't give you a recommendation as to what it ought to be, and I'm saying you need to be satisfied.

Now if they got whatever this new process is back, and say they just went to sampling, they would tell you the same thing, Senator. We can't scientifically say this protects the public.

So you've got to look at it. I'm not trying to side step this question and, Mr. Chairman, in all due respect, you said a minute ago you can't have both. You've either got to have on-line inspection or——

Senator **Levin**. No, I didn't say that. I said assuming you can't have both.

Mr. **Blaylock**. Okay. I just don't even want to assume that because I think it's the responsibility of this Congress to protect the public, and if you determine that we need a new process, then that's what we ought to have. If you determine that it's going to take more people, that's what we ought to have. If you have to find a way to finance it, my God, a half a mill per chicken out there would flood the whole industry with inspectors. So financing it is not a problem.

To me it's addressing the needs of protecting the public, but nobody has defined it yet. We will support any inspection process that does protect the public. We are not worried about the jobs. You've got all these plants out there and you've got to have people, whether they're doing sampling, whether they're looking at every sixth bird or however, but then you're going to have to be assured that the public is protected.

Senator **Pryor**. Mr. Blaylock, we're all looking for the same thing. We're looking for a way to have the most wholesome, nutritious products in the whole world and the most wholesome that we can possibly reach.

We are not side stepping you. I think you're side stepping us. What is your recommendation here today? What are you recommending, more people?

Mr. BLAYLOCK. I'm not a scientist and I'm not a food inspector, Senator, and I know you are not either.

First off, that is the responsibility of Dr. Houston and the management of this agency to come to this Congress and say to you we've got these problems and here are ways to change it that will address the problem. So far they have not done that.

Now you asked about this 58 percent salmonella thing. That came from Dr. Houston in that "60 Minutes" interview. He was the one that said he was not surprised at all at 58 percent of the chickens in this country had salmonella. He made that statement. That's where we got it from. So they have not addressed the problem.

As I went through my litany a while ago, every change that has occurred has occurred to increase productivity over the years, speeding up the line, speeding up the gutting machine, going to mirrors behind the bird so the people supposedly can see more. Nothing has happened out of this agency and they need Congressional authority to find new ways to protect the public.

We're arguing that they are not doing that and what they're proposing to you right now is not doing that. We think that's their responsibility. These inspectors perhaps could tell you some other ways, but they are not scientists or doctors either.

Mr. DEVINE. Senator, if I could offer the inspector's perspective that we've taken affidavits from. I've taken statements from about 35 whistleblowers from industry and USDA over the last few years and have talked to about three times that many.

They certainly agree they can't see the salmonella germs, but they insist that if they were permitted to they could see the fecal contamination that the salmonella lives in. And more than any other recommendation when I asked them what can we do to help, they say stop washing away the evidence of salmonella because you're not washing away the germs.

I think that's an issue that the NAS didn't really address, that maybe visual inspection would be more effective if we would stop making it impossible to see the symptoms of the germs that are there.

Senator PRYOR. Mr. Murphy.

Mr. MURPHY. I could make a recommendation. It's not going to eliminate salmonella, but I think it would certainly cut down on salmonella, and that is simply to go back to where we trim. If it's trimable, that we trim this fecal contamination off, trim it off. If it's down in the cavity to the point where you can't trim it off, you can save the legs, wings and the breast muscle tissue, instead of washing it, trying to wash it off.

The membrane inside of a chicken, when fecal contamination hits it, is similar to taking scotch tape and turning it inside out and putting say cigarette ashes on it and then trying to wash it off.

Senator PRYOR. Here we are. See, we're once again back on poultry. [Laughter.]

I see every one of you talking about chickens. Well, not Mr. Gee, I might say, but everyone else is talking about poultry, and that's what I had hoped we wouldn't talk about.

Now I want to ask my friend, Mr. Blaylock, a final question here. You represent 700,000 Federal employees. Now what have you said about expanding the food inspection program over in Food and Drug to fish? What have you said on this?

Mr. BLAYLOCK. What have I said on what?

Senator PRYOR. On expanding food inspection to fish or other areas that are not inspected now.

Mr. BLAYLOCK. My comment, Senator, was that we have and you have a responsibility to protect the American public. You made a statement that every time you had gotten food poisoning, except once, it was from fish.

Senator PRYOR. That was Dale Bumpers I think.

Mr. BLAYLOCK. Maybe it was Dale, but I agree with you totally. You know, if there is a problem in that industry, then I think the Government has a responsibility to protect the public. It's a changing world and we have a lot of new problems.

Senator PRYOR. Has your organization come out in favor of expanding food inspection for fish?

Mr. BLAYLOCK. We haven't taken a position on that. We had no reason to take a position. We take a position that we ought to be doing those things we need to do to protect the public, and if you need more people, fine. You may not need more people if you come up with the right process. We'll support that if you're sure it's the right process.

Senator PRYOR. I'm pretty amazed to hear that.

Mr. BLAYLOCK. Why?

Senator PRYOR. Because of the evidence of salmonella in fish products not being inspected today. Yet you come here and say you need to increase the inspections for meat and especially poultry, and just leave unprotected the rest of the consumers that eat fish.

Mr. BLAYLOCK. I missed the point of your question. If you're saying there is a serious problem in that industry, I'm saying to you we ought to be doing something about it, and if that means expanding the system, you've got my support.

Senator PRYOR. Mr. Chairman, thank you. This has been a marathon.

Senator LEVIN. Just one suggestion on this very critical issue of the inspection that we've talked about. Anyone on this panel that has a position on that issue as you study the reports and recommendations, if we are going to move from a visual to a systemic type of inspection with whatever resources we have, if—if we're put in that position and can't just increase the numbers but have to allocate them one way or another, I think you ought to get hold of the FSIS with some kind of a statement on that issue, because they are in the process of making that decision, and we would appreciate a copy of anything that you forward to them in that area because we are going to have to respond to any recommendation in that area.

That's a legislative issue, a very critical legislative issue that we're going to face, by the way, and it can affect an awful lot of people. It sounds technical and it is, but it becomes a legislative change required if we're going to change the requirements relative to inspection. So we have a serious decision to make. Again, probably not this committee. We have an oversight function and not the direct legislative function, but our report and recommendation on this, since we got into it so deeply this morning, I think would be given great weight by the committee that does have the direct legislative jurisdiction on it.

We thank all of you for coming and for your patience, particularly those of you who have come a long distance.

We will stand adjourned.

[Whereupon, at 2:05 p.m., the Subcommittee adjourned, subject to the call of the Chair.]

# ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Statement by
Donald L. Houston
Administrator of the Food Safety and Inspection Service
U.S. Department of Agriculture
Before the
Committee on Governmental Affairs
Subcommittee on Oversight of Government Management
U.S. Senate

May 15, 1987

Mr. Chairman and members of the subcommittee, I am pleased to appear before you to discuss productivity within the Food Safety and Inspection Service. We recognize that our number one priority is to provide consumers with a safe and wholesome meat and poultry supply. But we also recognize our responsibility to the American taxpayers, to ensure that their tax dollars are well-spent.

Today I will present an overview of the inspection program, including a description of our organizational structure, the changes we have made to modernize our program, the methods we use to ensure that inspection is carried out effectively, and our plans for the future.

We realized long ago the potential for modernization and increased productivity within the inspection program. Over the last two decades, the agency has felt the pressure to change from all sides, and we have had to respond.

Some of the loudest calls for change have come from a modernized meat and poultry industry. Productivity is on the rise, as industry has taken advantage of technological advances. Improved animal husbandry has resulted in better animal health. Particularly in poultry, there is more uniformity in the birds presented for slaughter. Plants are using sophisticated technology, many plant operators recognizing the benefits that can be reaped from tighter control over their own production through use of quality control systems.

Pressure to modify the inspection program also came from Congress. While our budget has experienced a 12-fold increase over the past 25 years--from $30.5 million in 1960 to about $374 million in 1987, our costs have risen even faster.

A number of factors have worked to create this situation. Inflation is one. We also have had to take over a number of state inspection programs mostly because the states could no longer afford to operate them. And, the volume of product has grown significantly.

These factors among others resulted in the Administration proposing a fee-based system of inspection. A fee-based system will help reduce the deficit without imposing a significant burden on the industry as a whole or consumers. Such a system will shift financial responsibility for quality control from the government to industry, thereby terminating a special benefit enjoyed by the industry. Institution of user fees will not change government commitment to protect the public health.

Pressure to change came from within our own agency as well. With the rapidly increasing diversity of meat and poultry products in the marketplace, we realized several things. One, we didn't need to inspect every product the same way. Two, we didn't need to inspect for things that were no longer a problem. And three, we needed to use new technology to our own advantage.

## Meat and Poultry Inspection Today

Before I describe the improvements we have made in the inspection program, I would like to provide you with a general description of the inspection program. FSIS carries out its reponsibilities under the authority of the Federal Meat Inspection Act and the Poultry Products Inspection Act. These laws protect consumers by assuring the meat and poultry products are wholesome, unadulterated, and properly labeled.

Last year, our inspectors examined 121 million red meat animals, almost 5 billion birds, and supervised production of 67 billion pounds of processed meat and 60 billion pounds of processed poultry. In addition, we monitored inspection programs in 33 foreign countries and reinspected 2.5 billion pounds of imported meat and poultry.

In their search for unacceptable product, our inspectors condemned 378,000 red meat carcasses and 55 million birds. They also condemned 136 million pounds of processed product and refused entry to almost 13 million pounds of imported product.

Our compliance officers made 53,000 reviews of businesses engaged in transporting, storing, and distributing meat and poultry products during the last fiscal year. They detained over 22 million pounds of suspect products, issued over 1,600 letters of warning, filed 12 administrative actions to withdraw inspection, and handled 33 cases that eventually led to convictions for violations of Federal inspection laws.

In support of these activities, we have a highly skilled technical and scientific staff. This critical staff is responsible for managing a range of activities, including the development and testing of new inspection procedures as well as analytical tests for chemical and microbiological contamination. We also have three field laboratories and several small laboratories in Beltsville, Maryland, that last year analyzed approximately 120,000 samples of meat and poultry.

In-plant inspection activities by far require the greatest proportion of the agency's people and money resources. We have approximately 8,000 inspectors, veterinarians and food technologists stationed in over 7,200 meat and poultry plants.

In-plant inspection involves checking live animals before slaughter, carcasses after slaughter, and the inspection of processed products at all stages of production. The bulk of inspection activities are directed from five regional offices located in Philadelphia, Pennsylvania; Atlanta, Georgia; Dallas, Texas; Alameda, California; and Des Moines, Iowa. They have the responsibility for the day-to-day management of inspection operations, including approval of staffing, ensuring that inspection requirements are applied uniformly, and basic personnel management.

Reporting to the five regional offices are 26 area offices, each headed by an area supervisor. Two area offices--Chicago and New York City--monitor only processing operations. The other 24 monitor both slaughter and processing operations. Major responsibilities of the areas offices include assigning personnel to ensure continuous coverage of all inplant positions, coordination with state inspection program officials to ensure that state programs remain "equal to" the Federal program, and supervision of circuit supervisors, the next level of inspection.

Reporting to the 26 area offices are 190 circuits, each headed by a circuit supervisor. The majority of the circuit supervisor's time is spent visiting plants to ensure that inspection standards, regulations, and procedures are followed in every plant. The circuit supervisor reviews all inspection assignments in the circuit monthly and identifies deficiencies to the inspector-in-charge.

The inplant inspectors represent the operational level for inspection. The inspector-in-charge at the plant provides first-line supervision to the inspection force. He or she deals with plant management to report on the status of operations in meeting USDA inspection requirements or to handle problems as they arise. In large slaughter operations, a veterinarian is usually the inspector-in-charge because his or her full-time presence and technical judgment is required. In small slaughter operations, the inspector-in-charge may be a food inspector who reports to a veterinarian who is in charge of a number of smaller plants. The inspector-in-charge in processing operations is usually food inspector.

As you can see, FSIS is a very labor-intensive agency. Out of our expected Federal operating budget of $338 million, about 86 percent of those funds is required for salaries and benefits. These figures exclude state grant money. Our next biggest expenditure is for travel, with over $18 million required to transport our inspectors and supervisors to and from their inspection assignments.

To give you a breakdown of our budget by program area, we have budgeted $213 million for slaughter activities, $93 million for processing activities, $9 million for import/export activities, $23 million for laboratory services, and $35 million for the grants-to-states program.

## Early Inspection Improvements

We are fortunate that Congress has shown its support for our program by consistently providing us with a budget that enables us to carry out these activities effectively. But we have received those much-needed dollars only after close scrutiny. In fact, this careful scrutiny spurred us to find ways to do our jobs more efficiently. Even as recently as the early 1960's, staff allocations in the meat and poultry inspection program were made on the basis of professional judgment. Judgment worked well enough until we were called upon by Congress to justify the number of inspectors in our workforce. We couldn't do it in any scientific manner.

That is when we introduced industrial engineering (work measurement) as a rational, consistent and equitable method of determining how many people we needed to do the job before us and how to distribute that work among individuals. We developed staffing standards that indicated how many inspectors were needed for slaughter plants operating at various speeds and how many inspectors were needed to do a certain number of tasks in processing plants.

At that time, developing work standards was a significant step, but it turned out to be just a stepping stone to the changes that were ahead of us. Now that we had a way to relate amount of work performed to the number of inspectors, we began to explore ways to simplify the inspector's work so that fewer inspectors would be needed.

At the same time, we recognized that we needed specialists in industrial engineering to help us do the job professionally. That is why we established an Industrial Engineering and Data Management Division, with experts in work measurement, methods analysis and operations research. These experts worked closely with our veterinarians to develop procedures that were both efficient and effective.

Our modernization of the inspection system began where the program itself began--with slaughter inspection. The early developers of inspection procedures certainly did not picture the marked drop in animal disease incidence and the technological advances that have led to skyrocketing industry productivity. Our traditional way of looking at animals was unnecessarily tedious in a modern environment, and it hampered the industry's ability to provide wholesome product to the public.

Due to the incredible growth of the poultry industry and the fact that healthier birds were being raised, this is the area where we first began work simplification.

We began studies on ways to simplify the work. Were there wasted hand motions? Could tasks be consolidated? For instance, for some diseases, we had visual and manual examination. Were both necessary?

Our first new poultry inspection procedure, developed in 1978, was Modified Traditional Inspection. It was a revolutionary procedure for us. We went from the traditional one inspector looking at one bird approach to a sequenced procedure where the inspection tasks were divided up among inspectors--as in an assembly line. The procedure also involved the use of mirrors so that the inspector could see the back of the chicken without having to turn it around--a step which previously took up to 50 percent of the inspector's time. This procedure was the backbone of our poultry inspection program for a number of years.

At the same time, innovations were taking place in processing inspection. If slaughter is where the inspection system began, processing is where it is heading. In the early part of the century, when our first inspection law was passed, relatively few processed products were made. However, in the past 20 years, production rose 20-fold. More than 1,000 different types of processed products are on the market, ranging from the familiar sausages and cold cuts to frozen dinners.

To accommodate these developments, many manufacturers turned to quality control to assure consistency in their operations. And we, looking for ways to meet our regulatory responsibilities more efficiently, decided to piggy-back on quality control systems already in place for data on which to base inspection decisions.

The use of quality control was a big step because it was the beginning of a trend where industry and government began working together toward a common goal. The idea of a regulatory agency using industry-generated data to make decisions on whether a plant is meeting inspection requirements was a revolutionary concept, and one which generated a lot of controversy from all sides. Companies that were not already using quality control claimed setting up such systems would cost too much money. Inspectors claimed that they would lose control over the plant's operations by not generating their own data and observing every procedure in that plant.

It took some time, but eventually, most have come to see the benefits of quality control. A survey we conducted shortly after the program was initiated indicated the companies found they had much better control over their own operations. They found that products were more consistent, there were fewer wasted ingredients, and less product and production time was lost because of mistakes.

The benefits were obvious to us, too. Because plant quality control systems generate a significantly greater amount of information than inspectors previously had available to them, inspectors can make better, more objective decisions. At the same time, quality control inspection is more efficient.

Even our inspectors, who didn't think the companies could control their own operations, changed their minds. They found that companies were indeed motivated to take on more responsibility.

As the benefits of quality control became apparent, we began to incorporate quality control concepts into slaughter inspection as well. In slaughter operations, the USDA inspector traditionally has served as a quasi-quality control manager for the plant, pointing out quality defects such as bruises to the plant employees for trimming. It became apparent to us that it would be much more productive to establish quality control programs to control these defects through sampling and have the inspectors concentrate on detecting disease, which is their primary responsibility.

We implemented the first such system--the New Line Speed System for broilers and cornish game hens--in 1984. Plants operating under the voluntary system could increase the speed at which birds are inspected from 70 to 91 birds-per-minute. This significant increase in inspection rates was possible because plants under the system are required to have a USDA-approved quality control program in place. These programs, unique to each plant, require plants to periodically check both carcasses and processing procedures at critical points during evisceration, and to take corrective action if the process begins to slip out of control. We know that if the process in under control, then USDA standards are being met. Our inspectors verify this by monitoring the operation of the quality control programs. We followed the New Line Speed Inspection System with a similar system for turkeys soon afterwards. Right now we are developing and testing similar systems for cattle and swine.

And the future holds even more change. We are pilot testing a cooperative government and industry inspection system for poultry--commonly referred to as Third Generation Inspection--that would make use of computers in the inspection process. Under this new system, we would train employees in a poultry plant to sort healthy birds from those which need to be condemned--which is what our inspectors now do. We would still have a USDA inspector on the inspection line, serving as a standard against which the performance of the plant employees is judged.

The computer would be used to record decisions made by the inspectors and to pick up any trends that indicate that the decisions made by any of the plant employees do not correlate with those made by the inspector. These individuals are examining different birds, but since birds within a flock tend to he very similar, the percent of birds that need to be condemned should be similar within that flock. A USDA inspector working at the end of the processing line would have continuous access to a video display showing how well each employee was sorting the birds. This information would be used by the USDA inspector to enable him or her to quickly examine the birds.

Not all of our new poultry inspection procedures are tied to higher linespeeds. For instance, in 1986, we achieved a major increase in our productivity by placing all plants that had previously operated under Modified Traditional Inspection under a new system called the Streamlined Inspection System. Although it operates at the same linespeed, 70 birds inspected per minute, increasing the plant's responsibility for removing quality defects such as bruises and broken wings allows us to inspect the same number of birds with two--rather than three--inspectors per line. Our inspectors monitor the adequacy of the trimming and processing operation by reviewing data from a statistical sampling of carcasses. The Streamlined Inspection System enabled us to reduce by 400 the number of poultry inspectors needed.

## Discretionary Inspection

Despite the progress we've made in modernizing slaughter inspection procedures, the potential for the most sweeping changes lies in processing plants, since that is the most rapidly growing area. Fortunately, the Processed Products Inspection Improvement Act of 1986 gives us the opportunity to begin making those sweeping changes.

As you know, Congress gave us last November the authority to determine, on a plant-by-plant basis, the appropriate intensity of inspection in processing plants. This is a very significant step for the agency, for no matter how creative we were in streamlining inspection techniques, we were still bound to operate according to laws passed as early as 1906, which mandate daily inspection, regardless of the type of operation or the plant's record in complying with inspection regulations. These stringent requirements reflected the atmosphere that existed at the turn of the century. Upton Sinclair's book The Jungle created a lot of concern on the part of consumers and Congress about the quality of meat, even though the book was meant to be a social commentary on working conditions in meat plants. In addition, animal diseases were much more prevalent than they are today, and modern animal husbandry techniques were non-existent.

Fortunately, Congress recognized that we are inspecting different products than we were in 1906, and we have new technology at hand to carry out a better inspection program. The new law provides us flexibility where we really need it--in the rapidly-growing processed products industry.

I might add here that never have we fired an employee in order to implement a new inspection procedure. Any reductions in inspection personnel have been made through attrition.

## Inspection Effectiveness

Looking back on our accomplishments, there is no question that we are more productive today. Our statistics indicate that in 1977, it cost $1.54 to inspect one thousand pounds of product. By 1985, that figure had decreased to $1.08 in adjusted dollars.

But not everything can be reduced to dollars and cents. We are also concerned with how effective these new procedures are in protecting consumers from adulterated and mislabeled products.

We carefully test every new procedure before implemention to be sure it is at least as effective as the traditional procedure. The testing of a new procedure may take several years to complete. After a testing protocol is established, a team of specialists will test a procedure in a number of plants in different geographical locations. The new procedure may have to be used in a plant for awhile before it can be tested since inspectors must be proficient in performing the new procedures before it can be accurately compared with the old one. When the test is run, carcasses inspected under both the traditional and the new procedures are then evaluated by veterinarians who record all errors missed. The team then evaluates which test is more effective. Often, a new procedure must be fine-tuned based on findings by the testing team or by the inspectors performing the new procedure.

Only when a procedure has been carefully tested do we issue a proposed regulation in the Federal Register. Then, we ask for comments from interested parties and make adjustments in the procedure if necessary.

Effectiveness not only depends on good procedures; it also depends on inspectors carrying out the procedures correctly. Our supervisory field structure provides a series of checks and balances to ensure that our inspectors are not only accurate, but consistent. The inspector-in-charge in each plant, as the first-line supervisor, plays the largest role in monitoring the quality of work. The inspector-in-charge closely supervises each inspector to ensure that correct standards are being applied.

The usual management tools--such as formal performance appraisals--are used to rate the quality of the inspector's work. In addition, supervisors are encouraged to provide their employees with frequent feedback on performance whenever appropriate. This direct supervision is supplemented with regular visits from the circuit and area supervisor. During these visits, any discrepancies in performance are discussed.

I might add that the environment within the plant plays a large role in how the quality of the inspector's work is perceived. The most tangible method the supervisor has of evaluating quality of work is by judging plant performance. It seems logical that a well-run plant is a sign that the inspector is doing a good job. But that is not always the case. There are plants that would follow every rule in the book without an inspector ever setting foot in the establishment. The inspector in that plant might be a poor performer, but it would be difficult to tell since the plant exhibits good compliance. Conversely, it is possible to have a good inspector in a marginal plant. We would hope that a good inspector could turn a poor plant around, but realistically speaking, plant management can find ways to circumvent the inspector if they try hard enough.

## Information as a Basis for Change

I would like to discuss how we use data and other information to guide our inspection activities, for the ability to respond rapidly to feedback plays a arge role in an effective program.

We use data on many levels and from many different sources. First, we generate much information during the inspection process that is used to determine whether plant management is following correct procedures. If deficiencies are found, adjustments are made immediately. Second, we have oversight functions built into our program that provide us with data needed to take corrective action, if necessary. This corrective action may involve intensifying inspection in a plant that is not up to standards, or it may involve more far-reaching changes, such as changing the way a procedure is carried out nationwide. On another level, our program is subject to frequent reviews by the Office of Inspector General and the General Accounting Office. In addition, we occasionally contract with outside management firms to review various aspects of our program. These reviews provide us with recommendations to better improve program functions. I would like to discuss the types of data generated at these various levels and how we use that information to shape our program.

The data we generate on an in-plant level is extensive. Particularly with the advent of quality control, checks are made at every step during processing, resulting in data that the inspector can use to adjust procedures, if necessary.

For instance, in the slaughter area, I mentioned that some of our new procedures have quality control monitoring systems built into them. These monitoring systems provide us with valuable data on how effective the inspection process is. A specially-trained inspector checks a statistical sample of carcasses throughout the day to ensure that the inspection process is effective in detecting defects. If it is not, corrective action is taken.

Also in the slaughter area, we just began a new procedure where the intensity of testing for sulfa and antibiotic residues in young veal calves is directly based on the compliance history of that plant. There are five levels of testing intensity, and plants can move back and forth between levels depending on the results of residue testing. This allows us to focus more attention on those plants where problems are most likely to occur and to decrease testing at plants consistently handling young calves free of sulfa and antibiotic residues.

In the processing area, an example of using data to improve effectiveness is our protein-fat-free regulation, which regulates the amount of water and other additives in hams by keeping track of protein content. Under the rule, we established three sampling phases--periodic, daily and retention--that reflect how well the company is complying with the requirements. Plants are switched back and forth between the various levels of sampling intensity depending on test results.

Of course, hard data is not the only information the inspector has at hand. There is a certain amount of professional judgment that must be used. For instance, if an inspector observes a prohibited ingredient near a sausage production area, he or she would know to investigate further to determine if that ingredient is being illegally used.

Discretionary inspection will allow us to take the concept of adjusting inspection activities at the in-plant level based on data available on that plant even further. We are still pilot-testing the system, but the inspector of the future will have immediate access to inspection results and other information about a plant so that inspection intensity can be adjusted up or down as often as is needed.

We have a number of oversight functions built into our program that provide us with additional data to help us improve effectiveness. In addition to supervisory oversight, which I have already described, we have established a Review and Evaluation Staff, which functions as an objective, separate review unit. This staff conducts on-site plant reviews to assess the day-to-day effectiveness of the inspection program. These basic reviews are generally conducted within inspection circuits. During a plant visit, the reviewers observe all aspects of the inspection process. Based on the reviews, the staff prepares a circuit summary, which assesses the adequacy of inspection controls. This report is thoroughly discussed with the circuit and/or area superivisor in an exit interview. In the event of a serious loss of inspection control in a specific plant, an Inspection Location Report is issued to alert program management to the need for corrective action. The Inspection Location Report is sent immediately to the regional director, who forwards it it to the area supervisor. A plan of action to correct deficiencies found is then developed. Since the reviewers visit plants nationwide rather than being assigned to a particular geographic area, inspection consistency throughout the country--rather than just within a particular region--is improved.

The Review and Evaluation Staff also carries out special projects where specific procedures or types of operations are reviewed in depth. These reviews have lead to changes in regulations and procedures where deficiencies have been found. Examples of special projects that have been carried out include fermented sausage production, water systems, cooked beef operations, canning, and oversight and certification of state meat and poultry inspection programs.

The General Accounting Office and USDA's Office of Inspector General provide us with additional feedback by conducting surveys and audits on various aspects of our program. We work closely with them to followup on recommendations they make to improve both the efficiency and effectiveness of our program.

We also rely on studies conducted by private groups to help guide us. Relying on outside bodies respected for objectivity helps to maintain public confidence as well as provide us with recommendations from a different perspective.

Ten years ago, for instance, the consulting firm of Booz, Allen and Hamilton, Inc., completed a major study on how to increase efficiency without sacrificing consumer protection. Their recommendations included greater use of quality control as well as more flexibility in determining the intensity of inspection required.

In 1985, we received results from another comprehensive study conducted by the National Academy of Sciences. The Academy concluded that we were headed in the right direction but that we could do more to modernize the inspection program. We just received a followup study conducted by the Academy that focuses just on poultry inspection. We will carefully study the report and respond to the Academy's recommendations.

## Microbial Control

The issue of microbial control has received much attention in the media lately, and it is an issue that the Academy addressed both in the 1985 study and in the study just released.

The Academy confirms the need to focus more attention on hidden hazards that cannot be detected through traditional inspection procedures. We feel that the second report responds thoroughly to the issues raised concerning how effective the current inspection procedures are in reducing contamination, and with your permission, we would like to submit a copy of the report for the record.

Despite the recent attention Salmonella contamination has received, the issue of microbial contamination is certainly not new. Today, we know that approximately 3 to 5 percent of beef, 12 percent of raw pork, and 35 percent of broilers contain Salmonella bacteria.

These figures may seem high, but in reality Salmonella is difficult to control in raw food. Scientists from 18 countries who met in 1984 at the International Symposium on Salmonella agreed that all foods of animal origin are potentially contaminated by Salmonella and that such contamination levels cannot be expected to change greatly in the near future. In addition, they agreed that the eradication of Salmonella in domestic animals is not attainable at this time except for specific infections.

Even though Salmonella receives much of the attention, we know it is not the only microorganism we need to be concerned about. One of the pathogens we are watching most closely is Listeria monocytogenes. Although listeriosis is rare, it has a 30 percent fatality rate. Although no meat or poultry products have been involved in any reported outbreaks, more than 80 people in California died from an outbreak traced to contaminated cheese.

Our strategy in the area of microbial contamination has been a three-pronged approach that combines research, regulation, and consumer education.

In the area of research, Salmonella has been our top priority since 1981. We have pursued this research in virtually all phases of livestock and poultry production, slaughter and processing.

In the area of regulation, we are developing a proposal that would allow companies to use special labeling if they operate microbiological control programs that use approved techniques to reduce contamination in raw products. Companies would have to identify areas in production and processing where microbial hazards exist and decide where in the system controls need to be applied to prevent food from being contaminated.

Recognizing that the government and consumers are "partners in protection," USDA has had an extensive program to educate consumers about food safety for almost 20 years. In 1986, for example, almost 3 million of the agency's food safety publications were distributed. The agency's Meat and Poultry Hotline was made toll-free in 1985 and has responded to about 30,000 inquiries since then.

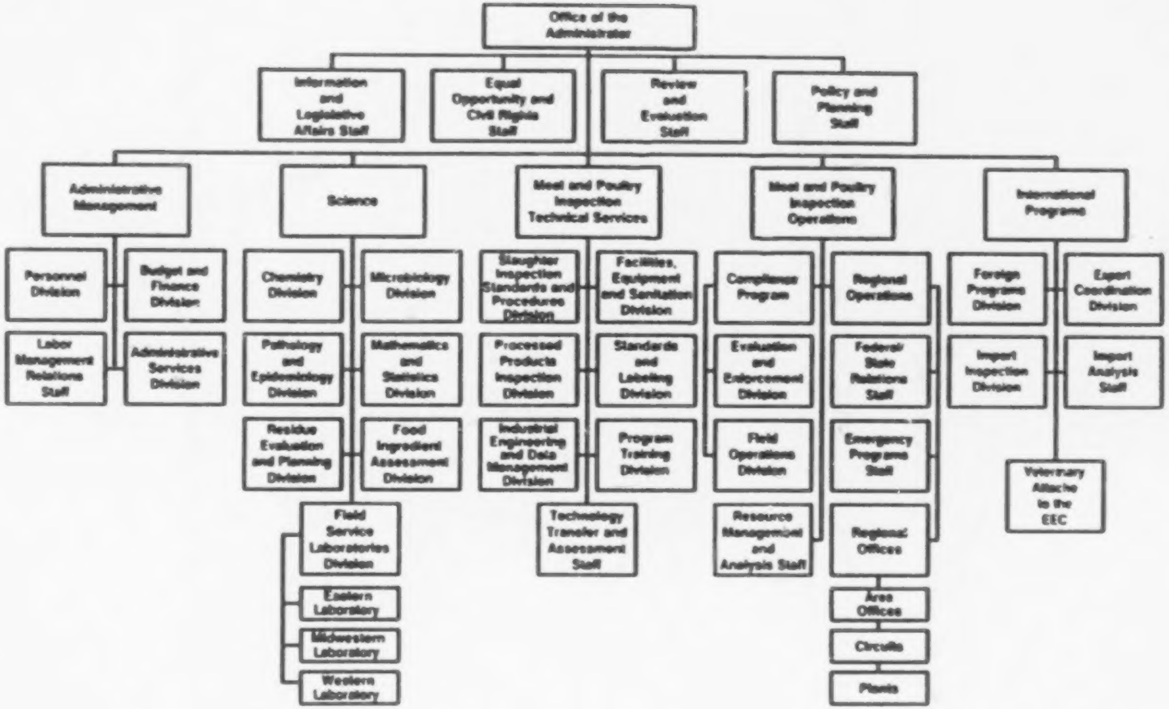
We also educate those who prepare food for large groups such as hospital and nursing home patients. We are now developing a new, comprehensive educational program for food service workers to improve safe food handling in commercial kitchens.

Mr. Chairman and members of the committee, this concludes my statement. We are proud of the changes we have made in the inspection program over the years. But we know there is room for further improvements in productivity and effectiveness, and I can assure you that we will continue to search for and implement them.

I would be happy to answer any questions you may have.

Addendum 1

**Food Safety and Inspection Service**
Organizational Structure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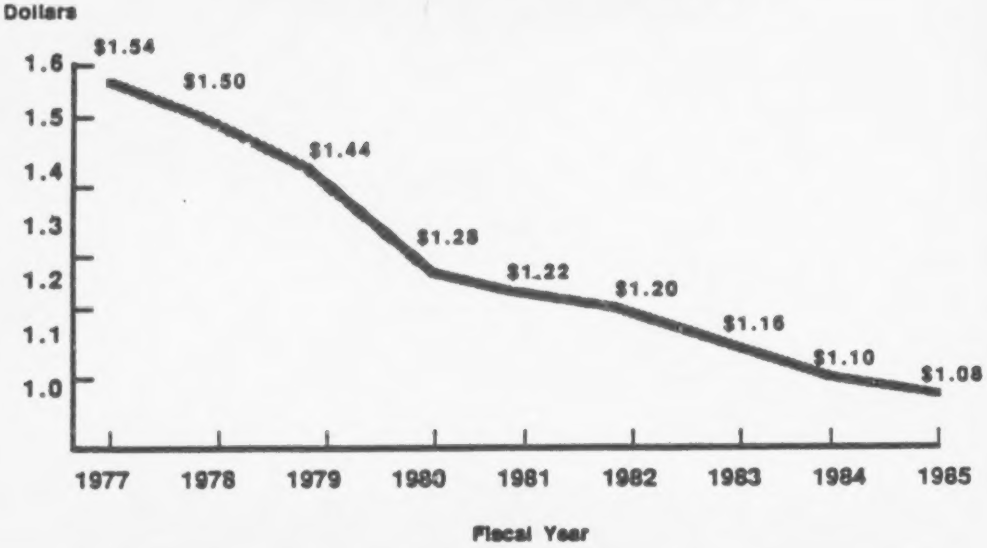
Information and Legislative Affairs Staff
Equal Opportunity and Civil Rights Staff
Review and Evaluation Staff
Policy and Planning Staff
Administrative Management
Personnel Division
Budget and Finance Division
Labor Management Relations Staff
Administrative Services Division
Science
Chemistry Division
Microbiology Division
Pathology and Epidemiology Division
Mathematics and Statistics Division
Residue Evaluation and Planning Division
Food Ingredient Assessment Division
Field Service Laboratories Division
Eastern Laboratory
Midwestern Laboratory
Western Laboratory
Meat and Poultry Inspection Technical Services
Slaughter Inspection Standards and Procedures Division
Facilities, Equipment and Sanitation Division
Processed Products Inspection Division
Standards and Labeling Division
Industrial Engineering and Data Management Division
Program Training Division
Technology Transfer and Assessment Staff
Meat and Poultry Inspection Operations
Compliance Program
Regional Operations
Evaluation and Enforcement Division
Federal/State Relations Staff
Field Operations Division
Emergency Programs Staff
Resource Management and Analysis Staff
Regional Offices
Area Offices
Circuits
Plants
International Programs
Foreign Programs Division
Export Coordination Division
Import Inspection Division
Import Analysis Staff
Veterinary Attache to the EEC

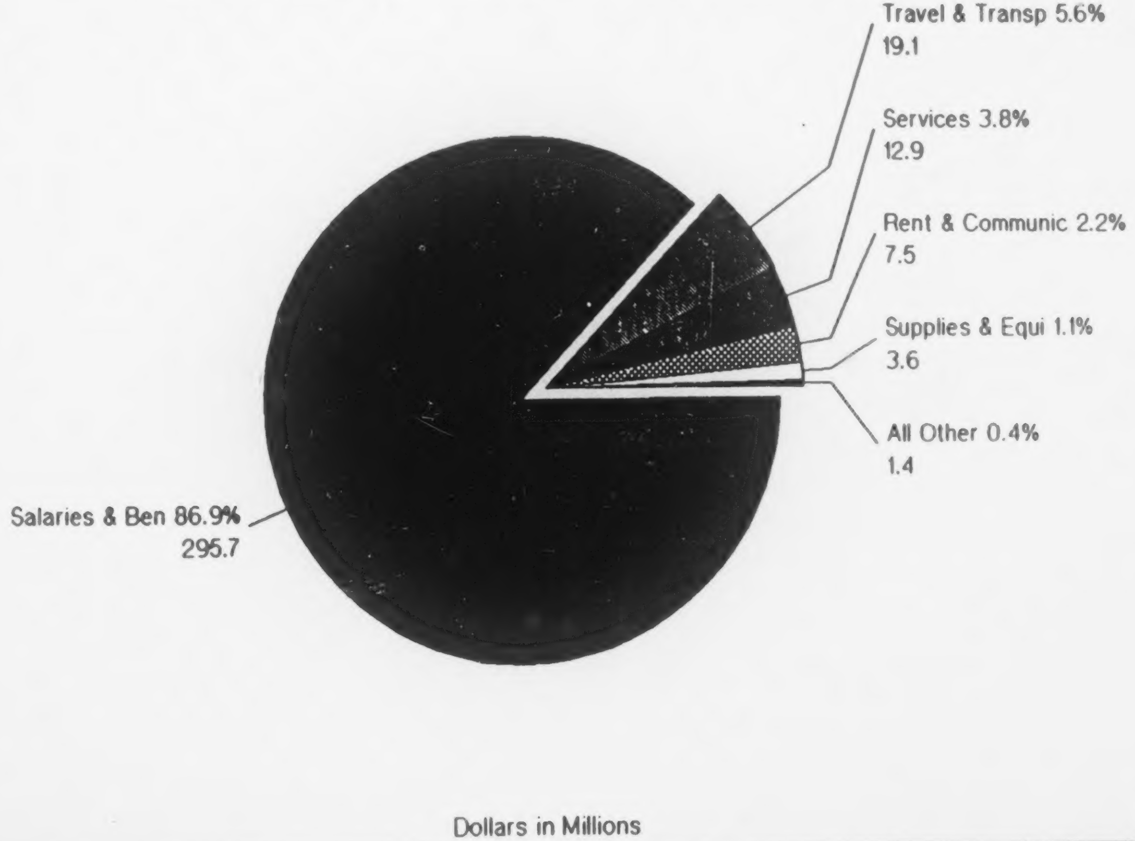
Addendum 2

## Federal Inspection Costs Per Thousand Pounds in 1977 Constant Dollars



Addendum 3

FOOD SAFETY AND INSPECTION SERVICE
1987 APPROPRIATION BY MAJOR CATEGORIES



United States General Accounting Office

GAO

# Testimony

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## Inspection Activities of the Food Safety and Inspection Service

Statement of
Brian Usilaner, Associate Director
General Government Division

Before the
Subcommittee on Oversight of
Government Management
Committee on Governmental Affairs
United States Senate

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GAO/T-GGD-87-15

Mr. Chairman and Members of the Subcommittee:

We are pleased to appear today to discuss preliminary results of the work we are doing at your request to review productivity and quality management in inspection functions of the federal government. As you requested, we began our review in the Department of Agriculture's Food Safety and Inspection Service (herein referred to as FSIS). The review is being conducted for the Subcommittee in order to assist in its oversight of management of inspection activities across the government.

Overall, over 40 federal agencies perform inspections and about 76,000 federal employees are involved in inspection-related activities. In addition, an undetermined number of others are involved in inspections in other position classifications, such as environmental protection specialists involved in environmental inspections. You suggested the Department of Agriculture as a starting point for our examinations because Agriculture, with over 10,000 inspection-related positions, is one of the agencies most heavily involved in inspection activities. FSIS had the greatest number of inspectors within Agriculture. This first phase of our work has primarily involved poultry inspections. For the purpose of our review, we considered quality management to mean assessing (1) how well FSIS inspectors are performing their work and (2) how well the facilities, products, and workforce at each plant are conforming to requirements of law and regulations.

Our review of slaughtering and processing inspection activities is in the early stages and our observations are, at this point, preliminary. We believe, however, that FSIS may need to improve its data on measures of the following:

-- Plant quality: Indications are that FSIS does not have objective, systematic measures of quality on a plant-by-plant basis that would permit a quantitative assessment of quality among various plants, or an assessment of a plant's quality over time.

-- Quality of inspector performance: Preliminary work has shown that FSIS does not have the objective information to assure the quality of an inspector's performance or to assess how well inspectors are following procedures.

FSIS is experimenting with various changes to its inspection procedures. We are concerned that the apparent absence of objective data on inspector performance and plant quality, which depends on facilities, products, and workforce, could impair FSIS' ability to assess the benefits of the changes.

I would now like to discuss FSIS' changing inspection policies and procedures, our preliminary observations, and why we believe objective quality data on plants and FSIS inspectors are important.

## FSIS inspection policies and procedures

Legislation enacted in 1906 and 1907 gave the Department of Agriculture the responsibility for inspecting meat and meat products prepared for human consumption. The Poultry Products Inspection Act, which was enacted in 1957 and subsequently amended, requires inspection of each poultry carcass. These inspections are intended to ensure that the Nation's supply of poultry is safe for human consumption. To achieve that end, FSIS inspectors visually inspect 100 percent of the birds slaughtered for consumption. Also, the inspectors inspect the slaughter and processing facilities. Agriculture is in the process, however, of exploring new ways to satisfy itself about product safety.

In 1983, FSIS asked the National Research Council, consisting of members of the National Academy of Sciences, to assess the inspection program and recommend improvements. In a 1985 report, the National Academy of Sciences recommended an optimal inspection system that would include random sampling and rapid, inexpensive screening tests to detect chemical compounds and biological agents. The Academy also recommended that new approaches not be implemented nationally until validated by objective assessment of their impact.

In June 1986, FSIS developed a future agenda in response to the National Academy of Sciences' recommendations. FSIS said it intends to evaluate procedures that have the potential to contribute to microbiological control. FSIS also said it is considering an allocation of staff resources in slaughter and processing plant inspections that would require FSIS to identify and quantify risks to the public and to establish inspection priorities and procedures based on the risks. A National Academy of Sciences follow-up report issued May 12, 1987 (Poultry Inspection, The Basis for a Risk-Assessment Approach) provided a model for a risk-assessment approach to poultry inspection.

The primary reasons for considering changes in inspection procedures are (1) FSIS' increasing concern that the current "look at every bird" approach is not adequate for detecting a broad array of potentially hazardous chemical compounds and biological agents, and (2) FSIS has a shrinking workforce that must inspect a growing number of slaughtered birds.

In addition to considering changes in slaughter inspection, FSIS is also experimenting with changes in processing inspection procedures in which the private sector becomes more involved in quality assurance and FSIS monitors the plant's quality control system.

## Our preliminary observations

FSIS' desire to move from detection of problems to an approach aimed at preventing problems is in line with quality assurance techniques being applied in the private sector, which involve sampling at all stages of production, statistical quality control, and participation by employees. However, it is important to point out that such an approach requires adequate data on slaughter and processing quality and appropriate analysis of such data. Any conclusions drawn from the data are only as good as the correctness of the information and the availability and accessibility of the data. In these new inspection procedures, it is particularly important for FSIS to have a means to measure (1) the quality of the plants being inspected at key points during slaughtering and processing operations, and (2) the quality of the work performed by inspectors.

Need for quality measurement data

I would like to discuss the issue of measurement in more detail. Let me tell you what we know about the collection and use of data on the plant quality levels.

-- A 1981 GAO report identified weaknesses in the collection and analysis of management data. We reported that inspection program supervisors, at times, did not adequately document the results of their monthly reviews (Improving Sanitation and Federal Inspection At Slaughter Plants: How to Get Better Results For The Inspection Dollar, CED-81-118, July 30, 1981).

-- The 1985 National Academy of Sciences' report said there was no comprehensive statement of criteria, no systematic accumulation of data, and no technical analysis of the hazards or benefits to human health in the traditional inspection program or as a consequence of new techniques.

-- A September 1986 Agriculture Inspector General's report indicated that FSIS did not have adequate controls over data collection and analysis involving poultry residues, such as drugs and environmental contaminants.

We do not know the extent these problems still persist. Our work to date has covered only a few meat and poultry slaughter and processing plants and a limited amount of work at regional and headquarters level activities. FSIS officials told us that the agency has requirements for the collection of various data that relate to quality. However, the desired amount of documented information is not consistently collected or analyzed. FSIS uses subjective judgment as the basis for their plant level assessment of quality.

While our preliminary work has shown that FSIS does not have objective, systematic measures of quality on a plant-by-plant basis, FSIS told us that a great deal of data are collected and entered into a central computer system and reports are generated from these data. Computerized reports that they obtain on quality at a plant appear to be more focused on how safe the slaughtered birds are for human consumption than on the quality of the facilities and workforce.

Regarding the quality of an inspector's work, preliminary indications are that the agency does not have the information needed to objectively make assessments. We met with the Administrator of FSIS, who acknowledged that his agency does not objectively track the quality of the work performed by individual inspectors. FSIS is presently using subjective ratings to evaluate inspector performance. In fact, at one plant we visited, the Inspector-in-charge told us that the most difficult phase of his job was to rate inspector performance.

## Why is performance data on FSIS inspections important?

In February 1986, the President issued Executive Order 12552, which established a Productivity Improvement Program for the federal government. The order establishes a comprehensive program for the improvement of productivity in executive departments and agencies and sets a goal of 20 percent productivity improvement in appropriate functions by 1992. The Department of Agriculture was one of 20 federal agencies included in the program. The implementing instruction for the order, Office of Management and Budget (OMB) Bulletin 86-8, required a description of how the agency will measure quality, timeliness, and efficiency and required that baseline data be established for each. As one of its productivity improvement initiatives, Agriculture submitted to

OMB recent FSIS changes in meat and poultry slaughtering activities. We noted, however, that in the submission, FSIS did not include measures of quality or plans to develop such measures. Without quality measures, you cannot determine whether productivity is being improved at the expense of quality.

As noted earlier, FSIS is experimenting with changes in its present procedures for assuring safe poultry products. It seems to us that there is a need for quantitative performance measures to judge the effectiveness of FSIS' inspection workforce and for objective, systematic measures of quality on a plant-by-plant basis in order to assess the relative benefits of changes to present inspection procedures. Regarding measures of plant quality, an FSIS official told us that FSIS is considering ways to develop an indicator of plant performance. This would permit the tracking of plant performance over time.

With regard to inspector quality, we plan to pursue the following matters during our review:

-- Is the inspector's quality increasing or decreasing?

-- Is management monitoring and emphasizing inspector quality?

-- What factors affect inspector quality performance?

-- How can inspector quality be improved?

Regarding plant quality, we plan to determine what specific reports are generated, who gets what in terms of quality analysis on individual plants, and how the reports are being used. We also plan to consider the applicability of quality assurance techniques and the impact of moving from a focus of detection to prevention of problems.

Our work in the area of poultry inspection will also be helpful in enabling us to identify issues for further examination when we begin our reviews of meat inspection and inspection activities in other federal agencies.

This concludes my statement. We would be pleased to respond to any questions you or any other members of the Subcommittee may have.

NBC
National Broiler Council

# TESTIMONY OF THE NATIONAL BROILER COUNCIL
BEFORE THE
SENATE GOVERNMENTAL AFFAIRS COMMITTEE
SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

May 15, 1987

The Madison Building-Suite 614/1155 Fifteenth Street N.W./Washington, D.C. 20005/202 296-2622

Good morning. My name is Charles Allen, III, and I am President of Allen Family Foods, Inc. in Cordova, Maryland. I am a member of the Board of Directors of the National Broiler Council and appear today on behalf of that organization. NBC is the national trade association of chicken producers and processors. Accompanying me is NBC's legal counsel, Gary Jay Kushner. NBC appreciates this opportunity to meet with this subcommittee. We are pleased to have the opportunity to tell you about the success that our industry, with the cooperation of the Food Safety and Inspection Service of the United States Department of Agriculture, has had in producing the safest and most wholesome poultry in the world.

In the 30 years since poultry inspection was first mandated, the technology involved in poultry slaughter and processing has advanced beyond anyone's expectations. With the help of science, the poultry inspection system has also evolved in an attempt to keep pace with the strides made in poultry production. As the National Academy of Sciences reported earlier this week, we are at a crossroads. The time has come for the inspection system to take the next major step in modernization to allow industry to assume even greater responsibility for product quality and to permit the establishment of a risk-based inspection system that most efficiently and effectively utilizes inspection resources.

This morning, I shall review the current inspection system and its historical development and shall explain how that system has worked well over the years. I shall then summarize the principal conclusions of the recent NAS report and suggest how the inspection system should be modernized. Further, I would like to take this opportunity to put into perspective the issue of microbiological contamination of raw food products and bring this subcommittee up to date on the efforts in which the poultry industry has for some time been engaged to control the incidence of such contamination. Finally, I shall touch upon the role of the consumer in that process and outline some of the simple steps that should be taken in the area of food handling and preparation to eliminate virtually any risk of foodborne illness.

## THE INSPECTION PROGRAM

Although USDA began offering voluntary inspection of chickens for wholesomeness in 1928, the mandatory inspection system in place today actually started in 1958. At that time, most of the industry put the majority of their efforts into production of live chickens, with processing being a necessary adjunct to getting the ice-packed whole broiler to market. Since then, the broiler business has grown into a totally integrated industry. This development has enabled companies to control the products at every point of production from the egg to the consumer's table. The industry has developed and utilized very sophisticated product control systems. Selective breeding, judicious use of avian medicaments, and improved feed have produced healthier birds than ever before. Because of the virtually total control that poultry companies maintain over their products and the confidence that they have in their ability to produce safe and wholesome food, substantial portions of poultry products today bear company brand names.

Over the past 30 years, the inspection system has evolved to keep pace with changes in the poultry industry and with advancements in technology. This inspection system -- and the combination of USDA oversight and industry quality control -- has ensured the production of consistently wholesome products. It is important to note that, as this system has developed, industry has assumed the responsibility for product quality, not USDA's inspectors.

When mandatory inspection began, one or more USDA inspectors on each chicken processing line each manually and visually inspected one bird at a time. In 1979, the system was changed to what was called Modified Traditional Inspection, with three inspectors on each line examining different areas of each bird. Today, with chicken processors performing the majority of product quality checks, USDA has been able to reduce the number of inspectors to two under its Streamlined Inspection System. In each step, industry accepted more responsibility for sorting birds and rejecting defective ones, and USDA's inspection resources were more efficiently and effectively utilized.

Industry sorting with USDA oversight is the inspection approach forming the conceptual foundation for what is known as in the "third generation" of inspection, an experimental system currently being tested by the Department in one pilot plant. That system relies on computer recordkeeping and data comparison as well as direct visual supervision by USDA. An "inspectional model" is used to monitor the efforts of plant sorters. As a result, products are still subject to continuous visual scrutiny, but product examination, in reality, is more comprehensive and inspection is more efficient and effective.

Recently, the progression away from the traditional labor intensive inspection system has been criticized. Instead of continuing to move into the future, certain USDA inspectors would prefer that the inspection evolution stop or even reverse. Frankly, certain inspectors and their unions, in fear of losing jobs to technology and progress, have tried to convince the public that the system's effectiveness has declined. Nothing can be farther from the truth. Indeed, none of the changes in poultry inspection has been implemented without thorough laboratory and field testing, and no changes have been instituted which were found not to provide the same or higher level of public protection.

The current inspection system has worked to protect the public primarily because the industry has taken the majority of the responsibility for product quality and safety, and has added even more quality checks. In some plants, over 90 percent of the people performing checks on processing lines are industry employees, not USDA inspectors. In fact, it is common for these industry employees to reject birds which had already passed USDA inspection. This happens because industry may have even higher product quality standards than those required by USDA. Remember, a substantial amount of poultry products bear their processor's brand names.

In addition to these on-line workers who perform their jobs under the general oversight of USDA, industry has been required to institute new quality control checks. Birds are removed from the line at specified intervals and examined by trained quality control personnel. The results are entered on official USDA forms, and are scrutinized by USDA inspectors. At least eighty percent of the required quality control records are a result of the new Streamlined Inspection System. Today, with these recordkeeping and quality control procedures, both USDA and the processors have better control over the ultimate safety and quality of the birds being produced.

Unfortunately, we have gone about as far as we can to improve efficiency and safety under inspection concepts that originated in the 1920's and became mandatory in 1958. Although the current inspection system has served us well, it focuses on the detection of sanitation and visually-displeasing defects of birds, and does not take full advantage of scientific advancements that facilitate the detection of microbial and chemical contamination. No USDA line inspection has even been able to do this, and no amount of visual inspection ever will. What is needed is a modern system which utilizes statistical quality control and quality assurance procedures in order to protect the public in the most efficient and economical manner possible. Three days ago, the National Academy of Science released a report on the use of such systems in the poultry industry.

## TIME TO MODERNIZE: THE NAS REPORT

Notwithstanding the continued progression of the poultry inspection system, it became apparent some time ago that the system would eventually be out-paced by science. Therefore, in 1983, USDA asked the National Academy of Sciences to convene a panel to examine the scientific basis for meat and poultry inspection. That panel released a report in 1985 which concluded that:

> "FSIS has made progress in reducing risks to public health from conditions that can be observed during antemortem and postmortem inspection and that can be evaluated during processing . . .
>
> Enteric pathogens are not identified by antemortem and postmortem inspection . . .
>
> A risk-based allocation of resources, supported by modern technology and a systematic evaluation of the program, would be valuable."

As a result of the 1985 NAS report, USDA asked the Academy to convene a new panel to develop a risk assessment model and apply it to the poultry inspection system. In addition, the committee was asked to assess the advantages of incorporating statistical quality control sampling procedures into poultry inspection.

In the report released this week, NAS recommended that USDA use risk assessment procedures in order to focus its activities on those controls with the greatest potential to reduce risk and prevent foodborne illnesses. In addition, the NAS committee recommended that the current system should be modernized. This would require the introduction of a comprehensive quality assurance system, and the elimination of "bird-by-bird" visual inspection. Such a system would employ statistical sampling, specified quality control checks, and quality assurance tests designed to detect risks.

It is significant to note that, while acknowledging the potential for microbial contamination of poultry, NAS concluded that meaningful microbiological quality standards cannot be set for poultry at this time. Instead, NAS recommended that future research be designed to find ways to prevent human illness, not just to decrease microorganisms.

The NAS committee also assessed the extent to which chemical contamination of poultry is a matter of concern. In this regard, the committee recommended that USDA and the industry use risk assessment to monitor for chemical residues. In examining the hazard posed by chemical residues in poultry, however, the committee "found no evidence that such residues pose a significant threat to public health."

In short, the NAS committee credited the current inspection system for the public health benefits that it has provided over the years, but recommended that the groundwork be laid for modernization of this system. Recognizing the limited role played by USDA inspectors in examining poultry for visible defects and the ability of industry to perform that function, NAS concluded that USDA's inspectional resources might be more appropriately focused in areas other than individual examination of every bird.

NBC agrees that the time has come to begin implementation of risk assessment procedures in inspection. Indeed, NBC had recommended to both of the NAS committees that consideration be given to the concept of risk-based inspection. Through careful study and the cooperative efforts of USDA and the industry, a risk-based inspection system ultimately can efficiently and effectively replace bird-by-bird inspection.

## SALMONELLA IN PERSPECTIVE

Recent media reports have suggested that microbial and bacterial contamination of poultry with salmonella and other microorganisms has increased and that consumption of poultry presents risk of illness. We appreciate today's opportunity to put this issue into perspective and to provide the members of this subcommittee with factual information to allay any fears that these sensational reports might have created in your constituents.

Salmonella is a bacteria found throughout nature, and is the cause of an intestinal disorder known as Salmonellosis. Because salmonella is so prevalent, it is carried by dust, dirt, insects, rodents, reptiles, and even by man. However, the amount of salmonella you normally come in contact with is not great enough to cause illness.

Unfortunately, since this microbe is so widespread, it is also found on raw food products. The same foods that provide a rich source of nutrients for man -- including dairy products, meat, poultry, fish, raw vegetables and eggs -- can become the vehicles for illness if they are mishandled in such a way as to allow salmonella or other organisms to grow to a level where they can cause disease. In fact, the 1985 NAS report cited a study which found that such abuses of meat and poultry products usually occur in food-service establishments and homes.

Contrary to recent allegations, data from the Centers for Disease Control would indicate that chicken is neither the major source of salmonellosis nor the cause of an increase in outbreaks of the disease. Moreover, the most recent CDC data suggest that chicken is less frequently the cause of salmonellosis than beef, dairy products or even salads and other mixed foods.

Despite our success in minimizing illness from this ever-present organism, industry, in cooperation with USDA and CDC, is continuing to search for new weapons against salmonella. An international symposium on salmonella, held in 1984, concluded that raw foods of animal origin are still frequently contaminated by salmonellae and other pathogens, and that the contamination levels cannot be expected to change in the foreseeable future.

The poultry industry is currently involved in the most extensive review of international and U.S. scientific literature on salmonella ever undertaken, including information which has never been published, searching for techniques which might be helpful. This information will be utilized by one of the country's premier research laboratories to test promising new procedures designed to reduce even further the incidence of salmonella.

The Southeastern Poultry and Egg Association and National Broiler Council have established special task forces to oversee this research, and to collect all that is known now, or may be discovered, about salmonella prevention and control. The charge to the NBC task force is to develop guidelines, based on this information, which will provide every poultry plant, big and small, with the information necessary in order to process birds under the most modern salmonella control procedures. These "Good Manufacturing Practices" guidelines will also be updated as new information surfaces, so that both the processors and the consumers of poultry can be ensured of the broad application of science to combat this problem. Since campylobacter has now been identified by NAS to be of concern as well, the literature search and related work will address that organism also.

It should be noted that it is by no means unusual for this industry to engage in voluntary efforts designed to enhance the safety, wholesomeness and overall quality of our products. Much of the broiler industry, on its own, began programs to improve the microbiological quality of poultry products and to control residues long before USDA ever considered the need for such programs.

No matter what the industry does to address this concern, these efforts cannot succeed without the cooperation of consumers. Inadequate cooking, improper holding temperature and poor personal hygiene are responsible for the vast majority of salmonellosis outbreaks. On the other hand, cooking destroys salmonella and that is one reason why chicken is not a leading source of illness. In other words, proper handling and preparation of food products can eliminate almost entirely any risk of salmonellosis. That is why it is so important that consumers be told the facts about salmonella and learn their role in ensuring product quality.

## THE CONSUMER'S ROLE: MAINTAINING PRODUCT QUALITY AT HOME

The NAS report released on Tuesday recommended educational programs for those who handle raw broilers at slaughter houses, at retail, and during food preparation in the home and commercial establishments. NBC has had an extensive consumer education program for many years. As long ago as 1975, NBC published information for consumers about the proper care and handling of chicken. The booklets discussed salmonella, chemical residues, and whether certain poultry diseases are transmissible to humans. We have instructed consumers on the number of different methods to cook chicken explaining why, for example, chicken in the microwave must be handled differently from chicken cooked on an outdoor grill. NBC devotes a significant portion of its budget to consumer education programs.

Most recently, NBC published and is widely distributing another consumer handling brochure entitled "Questions and Answers About Chicken and Food Safety." This educational pamphlet specifically addresses the possibility of microbial contamination, and includes practical and useful information on cooking and storing temperatures, proper kitchen sanitation, thawing and reheating products, and how to handle picnic foods. The booklet has been distributed in the United States and Canada to food editors, food distributors, public relations agencies, and agricultural and farm groups. We are also supplying pamphlets for direct distribution to consumers in the supermarket where they purchase their meat and poultry.

Earlier this week, NBC conducted a special educational seminar for food editors as part of the 37th National Chicken Cooking Contest held in Mississippi. We hope that the food editors who attended the briefing will spread the word to their readers about proper food handling.

USDA has also had an ongoing consumer education program. The Department sponsors a national toll-free meat and poultry hotline to address a range of consumer questions about cooking, handling and other meat and poultry concerns. This year, the hotline expects to handle almost 60,000 calls, with the majority of inquiries being about basic food safety. USDA also distributes the "Safe Food Book" which is available free to anyone requesting it. USDA also distributes other consumer brochures, and last year sent out approximately three million publications.

Finally, many food retailers have also published practical food handling information such as Giant Food's "Be a Safe Food Handler," which appeared in national newspapers and includes safe food handling tips directed at meat, poultry and seafood. Giant also distributes point-of-purchase materials in the store to help consumers handle such products properly.

We plan to continue working closely with USDA in our consumer educational efforts, and identifying additional areas that need particular emphasis. We would encourage all agricultural commodity groups to become involved in these educational efforts, so that consumers will have practical information about how to handle meat, poultry, seafood, fruits and vegetables, dairy products and all other foods properly.

## SUMMARY

Mr. Chairman and members of this subcommittee, we thank you for this opportunity to appear today and tell our industry's story. There have been too many unsubstantiated charges made in the news lately about the effectiveness and integrity of poultry inspection and the safety of our products. Such reports victimize not only our industry, but government and the American public as well.

In the 30 years during which the poultry industry has been under mandatory USDA inspection, the industry has prospered because we have been able to produce safe, wholesome, high-quality, appetizing products. The inspection system has evolved to keep up with our high level of productivity and the science and technology upon which our quality control procedures have been based. That system has served us well, but it is appropriate that we now consider further modernization of inspection.

The poultry industry has willingly assumed the responsibility for product quality. Our brand names are the best guarantee we can offer. We are proud of what we have accomplished, and make our commitment to continue working with USDA and Congress as we look toward the future.

# Statement Concerning

# USDA Inspection Quality and Activities

By:

Stanley J. Emerling,
Executive Vice President
in behalf of the

National Association of Meat Purveyors
8365-B Greensboro Drive
McLean, Virginia 22102

(703) 827-5754

Before the

Senate Subcommittee on Oversight of Government Management

Committee on Governmental Affairs
United States Senate
Room 342, Dirksen Senate
Office Building
Washington, DC 20510-6250

May 15, 1987

NATIONAL ASSOCIATION OF MEAT PURVEYORS
*Meats for the Foodservice Industry*
8365-B GREENSBORO DRIVE • McLEAN, VA 22102-3585 •. TELEPHONE (703) 827-5754

Mr. Chairman, Members of the Committee:

My name is Stanley J. Emerling, I am the Executive Vice President and Secretary of the National Association of Meat Purveyors (NAMP).

NAMP appreciates this opportunity to offer its viewpoint on the meat inspection activities of the Food Safety Inspection Service (FSIS) of USDA and how those activities affect our membership and the public interest.

NAMP has approximately 350 member companies. We are primarily processors and marketers of red meat products for the foodservice industry. Our members also market other food products and some of them are involved in further processing poultry and seafood. The foodservice sector is the fastest growing segment of the marketplace for red meat products. NAMP members are specialists to this industry which is composed of all types of eating-away-from-home establishments such as restaurants, hospitals, schools, etc. The foodservice market now accounts for using some 45 percent of total beef consumption and some 55 percent of all red meat usage. NAMP supports a strong and efficient meat and poultry inspection system that maintains public confidence in our products. Such a system has been mandated and funded

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by the public with their tax dollars for many years. The public continues to expect the system to provide them with meat and poultry products which are as nutritious and safe as they can possibly be.

In our judgment, we feel that the public does not want the system compromised by possible conflicts of interest caused by funding methods such as user fees, or by procedural or personnel interests that are not related and dedicated to the interests of achieving the goal of providing an increasingly safer, more nutritious and economical meat and poultry supply for consumers.

I would now like to respond to the four issues that you have asked me to address. Starting with:

**(1) the adequacy of the current inspection practices of the FSIS with regard to red meat and any actions which your industry is taking to enhance inspection and quality of meat and meat products.**

NAMP is confident that the basic framework provided by the Congress through the federal meat and poultry products inspection acts and the enhancements provided by the Processed Products Inspection Improvement Act is adequate to assure the public that their meat and poultry products are safe. We are also confident that the FSIS is dedicated to making this happen. From our viewpoint, the Administrator, Dr. Houston, and his staff recognize the great trust placed with them and handle this responsibility well, even though they may at times be hampered by budgetary restraint and personnel considerations.

NAMP feels that the FSIS quality assurance programs and the new inspection disciplines being readied under discretionary inspection will provide the means to respond to the food safety concerns being raised by today's more advanced scientific capability.

NAMP supports FSIS's efforts to upgrade its inspection work force with better trained and qualified personnel in the areas of microbiology and related fields. We also endorse FSIS's efforts to change from an inspection system based upon sight, touch and smell to systems that scientifically measure and assess microbial and bacteria contamination.

NAMP also supports an animal identification program that features a trace back method to identify the point at which residue contamination may have occurred. We feel it should be by means of a simple affidavit reporting form attesting to purity which would follow the animals from producer to slaughterer. A form of this sort will not impede the stream of commerce nor add any cost but it will, in the event of the discovery of a residue problem, allow a trace back to the source and the imposition of economic cost upon the party responsible.

Though not directly related to food safety but certainly to meat quality, NAMP has been the foremost proponent of consistent and reliable meat grading standards which identify the eating quality of red meats, particularly beef. We have campaigned continuously to prevent the lessening of these standards so that consumers will be able to rely upon those standards as their purse or desire dictates, and be assured that whatever their selection of quality may be, that it will continue to provide the same degree of satisfaction.

NAMP also pioneered and publishes the Meat Buyers Guide, a pictorial representation of the USDA Institutional Meat Purchase Specifications, which is known affectionately as the "bible" of the industry. Conceived in 1961, and revised in 1976, it is now in its 7th printing. NAMP is presently in the process of upgrading the publication to fit the needs of the modern foodservice industry. The Meat Buyers Guide has also been credited by many with changing the distribution system of red meat from carcass to boxed product, and thereby helping to promote more extensive use of meat products at lower cost.

With regard to issue

**(2) recommendations you may have to improve the quality and effectiveness of inspection activities of the FSIS with regard to meat or poultry.**

NAMP has several suggestions that it feels important for FSIS or the Congress to adopt that will enhance the quality and effectiveness of meat and poultry inspection. Our first suggestion is to have FSIS provide a continuum of surveillance over meat and poultry products after they leave inspected establishments. The present law only states that the Secretary of Agriculture may do so, but does not require it to be done.

USDA does not presently know the names or total number of non-inspected companies who may be dealers or distributors of meat and poultry products. It does not know if temperature and handling procedures, which are mandated for inspected houses, are met by these non-inspected operators. Furthermore, USDA has declared itself inadequate to police state maintained inspection systems and custom exempt facilities and has, through its own rule-making process and without external evaluation of the impact of these decisions in either of these cases and in others, decreed that these systems should be returned to state and local supervision. This is in contradiction of the Congressional intent that all meat and poultry be equal to federal standards of compliance.

Albeit, it may be a large job, but certainly if food safety is the key, then because meat or poultry is not ultimately judged safe by present day standards until it has been utilized by consumers, there should be adequate safeguards and compliance oversight available to assure a continuum of safety. In our opinion, a greater consensus of opinion should be employed to resolve questions of this sort.

Secondly, we have another idea which we recognize may be politically difficult, but which we feel would greatly improve the ability of the inspection system to function for the benefit of the public.

It is our opinion that the goal of providing safer, more nutritious and economical meat supplies for consumers should not be compromised either by resistance to change due to union activity or by personality conflicts that may arise between regulatory and plant personnel.

We suggest that provisions be made to establish an independent office within USDA that will function in an ombudsman-like capacity. The purpose of such an office would be to review and moderate disagreements between inspected establishments and FSIS personnel.

We feel that such an ombudsman office could prevent situations such as have come to my attention from a number of our members concerning the difficulty that they are having at the local levels in obtaining inspector cooperation and assistance in their efforts to join in the new and improved food safety quality assurance programs.

The allegation has been that this resistance is due to an inspector's union policy which is designed to prevent implementation of new programs that might eventually reduce the number of jobs available. I would like to say, however, that the FSIS has moved quickly to override this opposition once it was brought to their attention, but sometimes many months have passed with inaction and apparent harassment because companies were reluctant about raising such an issue due to concerns about creating even greater difficulties for themselves with their local inspectors.

Our members now voice this same concern as the Agency prepares to establish guidelines and profiles on companies to assess their eligibility for the new discretionary inspection or even for being placed under more rigid supervision depending on the individual company's risk assessment.

We need to make sure situations such as this do not occur in the first place and that personality conflicts, which sometimes will be inevitable, are not allowed to capriciously affect judgments.

FSIS should not be required to deal both with collective bargaining and its possible effects upon food safety programs, but should rather be allowed to devote its full manpower and energy to create a system to provide the absolute best meat and poultry safety programs possible. A neutral ombudsman-type approach would be the solution to this problem.

I would now like to address the third issue

(3) your views on recent reports on the increase in the incidences of microbial and bacterial contamination in certain food products, such as salmonella, and your views on the steps that the FSIS or your industry can take to further protect the public health from such contamination.

Unfortunately food related illnesses such as salmonella have always existed. These microorganisms, though present to a greater or lesser degree depending on product specie or handling conditions, are now verifiable by enhanced scientific capability. Accordingly, as we previously stated, we must adopt new quality assurance programs such as Total or Partial Quality Control and new initiatives such as discretionary inspection to put in place the best and most reliable methods to assess and control the incidence and spread of microbial or bacteria contamination. NAMP supports the new techniques and supports upgraded scientific requirements and the employment of better trained and knowledgeable personnel to help contain such problems.

We need to recognize, however, that this is only part of the problem. No matter how well USDA or the industry does its job, the key to the final elimination of food borne illnesses, such as salmonella, rests with the commercial or individual user of meat and poultry products. Proper handling, cooking, and storage of meat and poultry is an absolute necessity if we are to eliminate the problem. It will do little good if after the strictest, most advanced methods of production are employed to assure food safety, the products are mishandled and contaminated by retailers or consumers due to improper handling or from ignorance.

This now brings me to issue

(4) the need for consumer education to further protect the public health against salmonella and other contamination from meat products.

This is the bottom line to all of our efforts. Certainly we in industry need to look at our practices and upgrade, where necessary, both equipment and procedures to assure the highest degree of food safety when our products leave the plant. That is the absolute first step necessary to maintain public confidence in our meat and poultry products. Thereafter users of these products must maintain a product's integrity. Food handlers, retail clerks and consumers must not only know the rules of food safety, but they must practice them!

Important guideposts and rules of practice must not be left to chance. They must be communicated at all levels starting in the schools and continuing through all types of public service announcements. Programs dealing with food safety must be installed in the training programs of all retail stores and commercial foodservice establishments and constantly repeated. Individual consumers must also be reached with the same information in a way that is easily understood by them.

This becomes increasingly more important as new products and broader distribution enlarge the market. It is also increasingly more important as the demographics of our country change and new cultures and languages become more prevalent.

USDA has established a "hot-line" for consumer questions on food safety. They are also providing more printed food safety information to commercial and individual users, but we have only scratched the surface. More food safety education sponsored both by industry and government is a must if the problem is to be fully understood and addressed.

Mr. Chairman, this concludes my testimony. NAMP appreciates both your and the Committee's interest in our comments. We welcome the opportunity to be of assistance at anytime. If you have any questions, I will be happy to try to answer them.

Sincerely,

Stanley J. Emerling

Stanley J. Emerling,
Executive Vice President

SJE:jrm

STATEMENT BY

KENNETH T. BLAYLOCK
NATIONAL PRESIDENT
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
(AFL-CIO)

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ON

U.S. DEPARTMENT OF AGRICULTURE
MEAT AND POULTRY INSPECTION PROGRAM

ON

MAY 15, 1987

My name is Kenneth T. Blaylock. I am the National President of the American Federation of Government Employees (AFGE), AFL-CIO, which represents 700,000 government employees, including the federal meat and poultry inspectors employed by the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture.

Today you will hear a lot of testimony of a scientific and organizational nature. The scientific testimony will be replete with references to odd-sounding microbial pathogens such as campylobacter. The organizational testimony referring to altered inspectional processes will be filled with acronyms such as TQC (Total Quality Control), NELS (Newline Speed), SIS (Streamlined Inspection System), and HACCP (Hazard Analysis Critical Control Point). But before the Committee becomes entwined by the details of the inspection process and its current problems, it is important to step back and gain a broader persepective.

As the union representing the front line troops in the battle to halt diseased meat and poultry from reaching the consumer, we would like to bring a somewhat different view on the impending crisis in food inspection. This view can best be brought forward by critically reviewing Dr. Donald Houston's (Administrator of FSIS) recently stated principles for the inspection process and addressing the points where we differ. In recent testimony before the House of Representatives, Dr. Houston stated these principles as follows:

> "(1) Public protection throughout the food chain is the primary objective of the meat and poultry inspection program.
>
> "(2) The allocation of inspection resources should be based on the risks to the public inherent in a product, a process, or a processor.
>
> "(3) In decreasing risks to the public, an inspection program should take full advantage of the available production and scientific technologies to promote industrial productivity and inspection program efficiency.
>
> "(4) The responsibility for public protection should be shared by the government and the meat and poultry industry. The government should encourage greater industry responsibility through an appropriate mix of education, incentives, and enforcement."

As these principles make clear, the mindset of FSIS is to confuse the legitimate government's responsibility for "public protection" with efforts to "promote industrial productivity" and "industry responsibility" for self-policing. Dr. Houston, in remarks to the International Poultry Trade Show, went a step further, saying:

> "Perhaps the most important message I want to leave with you today is that the inspection program of the future--and this includes discretionary inspection--will operate with the expectation that plants will take full responsibility for controlling all aspects of their operations."

Inspection policies derived from these premises and moving in this direction are destined to endanger the consuming public.

The mission of FSIS should be to guarantee to the public the wholesomeness of meat and poultry. All other concerns, including industrial concerns, should be relegated to a secondary and subservient role. This clearly was Congress's intent in the passage of the 1906 Meat Inspection Act, the 1957

Poultry Products Inspection Act, the 1967 Wholesome Meat Act, and the 1968 Wholesome Poultry Products Act. In the words of the Wholesome Meat Act:

> "It is essential in the public interest that the health and welfare of consumers be protected by assuring that meat and meat food products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged."

In an industry such as the meat and poultry which is characterized by intense competition and razor thin profit margins, the economic profit incentive for individual plants will inevitably, and I do mean inevitably, work against the guarantee of wholesome food.[1] This is the lesson of history, the lesson of our inspectors' experience, and the lesson of thousands of consumers rendered ill by contaminated meat and poultry.

Any inspection process which fails to recognize this fundamental fact is doomed to failure, and this failure will result in illness and death.

We maintain that an inspection process dedicated to public health and built on an understanding of the economics of the industry should be characterized by the following premises:

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[1] This does not mean that bad meat and poultry is in the industry's best interest. Clearly it is not. Bad poultry and meat lowers consumer confidence and lowers final demand for the industry's product. However, the best interest of the industry cannot be translated to the individual plant where survival may depend on turning a blind eye to procedures and products which threaten public health.

(1) The inspection process should be run and controlled by the federal government, free from direct industry influence.

(2) The government should have an onsite, effective presence in all plants involved in the production of meat and poultry products.

(3) Industry productivity improvements should be forced to adhere to any inspection process constraints which are necessary to protect the consumer. The inspection process should not be weakened to meet the demands of changed production technology.

(4) The agency resources should be concentrated in their front line troops, the inspectors.

(5) The front line inspectors should be empowered with strong authority and given support by Agency management in exercising that authority.

(6) New and improved inspection procedures should be additions to an onsite inspection process and not be used as an excuse to replace or weaken the existing process.

As a sidenote, let me add that we have not had the opportunity to review the latest National Academy of Science report on the meat and poultry inspection process, but their 1985 report also criticized FSIS for their orientation "toward the meat and poultry industry as its peer group [rather] than toward the broader scientific and public policy community".

But on a more fundamental level, we also have concerns over the NAS approach to the inspection problem. As befits their standing as scientists, they approach the inspection process much in the same way as scientists study the movement of molecules in a gas. They note the molecular movement (in this case, the inspection process) and make recommendations for altering this movement. What they do not adequately account for is that the behavior of the objects of their study are driven by economic incentives. The molecules in this case have a will and will change their behavior in unforeseen ways, but in accord with their economic interests.

While we welcome the application of new testing procedures as part of the inspection process, we have yet to be convinced that any such procedures negate the need for the public's watchdog--the meat and poultry inspector.

Turning to the Committee's particular requests for information, we would cite as an example of the deficiencies in the FSIS inspection the altered treatment of fecal contamination of poultry. Originally, our inspectors would condemn any chicken with fecal contamination. This was weakened to trimming the part with the contamination, and now the contaminated bird is merely washed. In a similar fashion, the weakened standards governing the fresh water intake in the poultry processing has reduced overflow and increased the cross contamination of chickens by fecal matter, giving rise to Diane Sawyer's apt phrase "fecal soup".

Although direct cause and effect may be difficult to pinpoint in such a disease as salmonella, we find it impossible to believe that the increase in line speeds and such inspection changes are not connected to the salmonella explosion in poultry. We find inconceivable past industry explanations which attributed the explosion of salmonnella to improper handling by consumers. [See Good Morning America, April 4, 1985.] [Dr. Houston, in the 60 Minutes interview, freely admitted that salmonella may now infect 58 percent of U.S. chickens. Further statements by agency officials to our inspectors have indicated that red meat inspection is as bad as poultry and will worsen.]

The reduced standards are matched by reduced inspector authority and weakened supervisory backing. We are attaching an affidavit of an inspector who attempted to stop a poultry line because rust was falling from the ceiling onto the chickens only to be overruled by his supervisor. Numerous other examples can also be found in the 1983 report, Return to the Jungle, by the Center for Responsive Law.

We also draw your attention to Representative Matthew Martinez's (D-CA) testimony of April 8, 1987, before the Agriculture Committee detailing the FSIS handling of two Los Angeles meat inspectors who had been victims of both verbal and physical intimidation by meat processing plant employers and operators. As Representative Martinez concluded:

> "I have shown, through my example of the conditions in Southern California, that FSIS is unable to perform up to the standards consumers expect under the current system of inspection. I cannot imagine how FSIS plans to protect the consumer from adulterated or contaminated meat and pork under the soon-to-be-implemented discretionary system of monitoring if it cannot ensure such conditions under the existing system of inspection."

My members have told me of having to endure numerous attempts at intimidation including having their tires slashed. This intimidation coupled with inadequate agency backing has made the inspector workforce very reluctant to come foreward publically on abuses because of their justified fear of retaliation by the agency or the industry.)

In the light of this fear, I would like to share several results from a 1983 survey undertaken by our National Joint Council of Food Inspection Locals. It showed 81 percent of the inspectors who responded think meat and poultry inspection are controlled by the industry the USDA is supposed to be regulating, 59 percent do not think the consumer is being effectively protected, and 50 percent think there would be retaliation if they complained or filed a grievance. Those are subjective opinions, of course, but they were freely and anonymously provided by those closest to the day-to-day inspection process.

In talking with meat and poultry inspectors in our union, I'm struck by their commitment to their job and commitment to the health of the American consumer. Two themes are continually sounded in discussions of the management reforms to improve their ability to carry out their job.

First, is the need to shift personnel resources out of management overhead and in to the front line inspectors. Second, is the need to reduce the paper load on inspectors and increase the inspection time.

We urge this Committee to request that FSIS document the proportion of inspectors to agency personnel and the proportion of personnel costs for inspectors to other agency personnel costs. We further urge the Committee to investigate whether a greater proportion of agency resources could not be shifted to the inspectors who actually protect the meat and poultry food supply and away from duplicative management layers. Finally, we urge the Committee to require the Agency to justify the increased level of paper shuffling from such procedures as the monthly reviews under the Inspection System Work Plan.

We want to put in perspective the various "new" inspection procedures which have been introduced, such as Total Quality Control, Partial Quality Control, the Streamlined Inspection System, and the upcoming Discretionary Inspection for processed meats, by identifying the rationale and driving forces behind all of these new procedures. These forces and trends are not encouraging for the American consumer:

- Since 1979, the amount of federally inspected poultry has almost doubled to over 24 billion pounds.
- Since 1970, the amount of meat federally slaughtered has gone up by some 12 percent to some 37 billion pounds.
- Since 1979, federally inspected processed food production has jumped some 28 percent to almost 124 billion pounds.
- At the same time, the federal inspection budget has declined in real terms, and the number of inspectors has declined by over 10 percent.

Earlier in our testimony, we addressed the economic forces driving the meat and poultry industry. Now we can recognize the other horn of the economic dilemna, budgetary pressures driving the alteration of the inspection process. Dr. Houston, in 1984 testimony before the Senate Appropriations Committee, admitted that this was driving FSIS new inspection procedures:

> "As the Committee knows, over the past five or six years, FSIS has undertaken major initiatives to hold down the costs of inspection." (Emphasis added)

We maintain that the driving force motivating these new inspection processes are budgetary constraints, not improved inspection and improved public health. While we recognize that changing needs and changing public health problems generate the need to change inspection procedures, changing procedures for budgetary reasons is both shortsighted and dangerous.

Thank you.

SWORN APFIDAVIT
OF STEVE HEUTON
A FOOD INSPECTOR USDA-FSIS-MP

1. I hereby swear the following to be true and correct.

2. My name is Steve Heuton. I have been employed by the USDAFSISMPI for a total o nine (9) years.

3. I am a member of the American Federation of Government Employees-AFLCIO, Local 2323 and have been a member of AFGE for nearly nine (9) years. I am Local 2323's Vice-President. AFGE is the exclusive bargaining representative for the USDAFSISMPI. AFGE is concerned about the morale of the employees and the quality of inspection.

4. I have served the USDAFSISMPI faithfully and never have had a disciplinary action taken against me.

5. I am a GS7 food inspector. My job is to conduct post mortem inspections on hog and cattle carcasses, during and after evisceration. I am responsible for finding diseased and contaminated carcasses. I am also responsible for sanitation and sanitary dressing procedures in my area.

6. I fear that reprisal by management will be taken against me because of this affidavit.

7. BACKGROUND- I was assigned to work at Farmland Foods,Denison, Iowa to inspect hog carcasses in October and November of 1986.

8. VIOLATION- Chunks of rust, paint and rubber coating were falling from overhead areas onto hog carcasses, viscera,head table, lard tank and boxed meat area on a continuing basis. You could observe this anywhere on the kill floor. The size ranged from specks to chunks approximately the size of quarters. When these chunks hit the carcasses and viscera some would break into pieces.

9. FIRST DAY- I took the following action: Jim Utesch (a USDA-FSIS-MPI inspector) and I stopped production. We notified our supervisor, Dr. Jack Amdor, of our action. Dr. Amdor instructed us to allow Farmland Foods to resume production.

:  SEVERAL DAYS LATER- My circuit supervisor, Dr. Dores Ross, was in the plant. I showed him the overhead and told him that contaminants were falling on edible products. I told him that I had notified Dr. Amdor of the violation and that Dr. Amdor ordered me not to take any action. Dr. Ross replied, "Yes, it does look bad...but I don't care if the whole ceiling is falling. If your supervisor says to let it go, you let it go."

11. CONCLUSION- In order to correct this situation we had to wait until Dr.s Ross and Amdor were out of the plant.

12. We then stopped production for a day on November 5, 1986, and made Farmland Foods clean up the overhead.

13. Although my action was ultimately backed by the assistant area supervisor.Dr. Brune, I feel that Dr. Ross has held this action on Farmland Foods against me. He reminded me that I would not be promoted unless he approved it. According to our promotion procedures, Dr. Ross is not supposed to have final say on who is promoted.

Steve Heuton
USDA-FSIS-MPI
May 8. 1987

State of Iowa
County of Johnson
Shirley L. Pummelhart
Notary Expires Sept. 16, 1987

# TESTIMONY OF VERNIE GEE

on

# MANAGEMENT OF U.S.D.A. FOOD INSPECTIONS

before the

SENATE GOVERNMENT AFFAIRS SUBCOMMITTEE ON
OVERSIGHT OF GOVERNMENT MANAGEMENT

May 15, 1987

Mr. Chairman and Members of the Subcommitte:

Thank you for inviting my testimony today. My name is Vernie Gee. I am a GS-7 Level 10 meat and poultry inspector in the Long Beach area office, Food Safety and Inspection Service (FSIS), United States Department of Agriculture (USDA). I've been an inspector on the kill floor for meat and poultry -- primarily beef and pork -- since March 3, 1968. I am accompanied by my counsel from the Government Accountability Project, Mr. Thomas Devine.

For many years I have been challenging filthy conditions and diseased carcasses at meat and poultry plants that received USDA approval for their products. For too long it has been a lonely struggle. Over the last five years, I know that things have gotten much worse. Over the last few years, more and more people seem to have realized that. In March 1985 I submitted an affidavit to the Inspector General of the Department of Agriculture. My affidavit is enclosed as Exhibit 1. I also spoke with members of the press and congressional investigators during that time period. A relevant news article and editorial from the Los Angeles Times are enclosed as Exhibit 2. In 1986 I filed a legal petition with the Secretary of Agriculture, enclosed as Exhibit 3. Thanks to the support of the media and of congressional committees such as your own, the struggle to defend basic sanitation standards and public health in the meat and poultry industry isn't as lonely as it used to be.

I am afraid, however, that the public may get the wrong impression that the problems have been solved. Over the last year, the USDA has claimed -- both through a Review and Evaluation team report and through testimony from Dr. Donald Houston, head of the FSIS -- that management deficiencies in Southern California have been largely solved. While we have made some progress, it is far too early to pat ourselves on the back. It's like we have run the first few yards of a mile run, dropped out and patted ourselves on the back for a good race. I told the review team last year of the ongoing problems in Southern California. Unfortunately, the review team didn't include my disclosures in the report that they eventually issued. As a result, the problems are continuing, in my experience and that of other inspectors.

Today I want to share with you the types of public health threat that the Department of Agriculture isn't telling the public about. I will not discuss major policy issues, such as whether we should have quality control or discretionary inspections. My testimony will be about the problems I have seen as an eyewitness and the type of problem that I told the review team about. I'll leave it to this committee to judge whether they are important for the management of USDA's meat and poultry program.

## Not Looking at the Products

One result of personnel cuts is that we can't look at the meats the way we used to. One example involves Acceptable Quality Level (AQL) checks at the end of the inspection process. These checks are designed to learn if we have missed a significant number of defects in the carcass-by-carcass inspection on the line. If we find too many errors in the sample, the whole lot has to be reworked. In the past we could conduct these AQL checks every day. Due to personnel cutbacks, it's as if we turned a major part of the meat inspection program over to the companies.

To show the effects, over the last year I am not aware of the companies rejecting any lot in AQL tests at plants where I've worked. I personally have found plant officials falsifying the AQL reports. USDA inspectors used to find the errors and reject the lots. I've personally double-checked some of the companies' results and seen defects --such as foot-long abscesses in the carcasses that are filled with greenish pus. Apparently the companies said these problems were all right, but I don't agree. Depending on the condition of the beef, these types of abscesses are on up to 10 to 30 percent of the carcasses in lots approved by the companies. I've watched plant officials skip steps in the AQL reinspections and then fill in results on the AQL for checks they didn't make.

## Sanitation

The second area I would like to discuss involves ongoing sanitation breakdowns. To put it simply, in the last year the flies have been getting meaner, the roaches fatter, and the rats bolder. There are still holes in the roofs at some plants, so that when it rains the rainwater falls in and soaks the products, which still go out to the public. I regularly see examples of contamination in mareguts, or beef intestines, which are approved for sale to the public despite having fecal contamination that hasn't even been flushed out. With respect to the beef intestines alone, I would estimate that the fecal contamination rate is near 100 percent on what USDA has approved as edible products.

Sanitation records routinely are falsified to indicate that problems have been solved with respect to sanitation, although the equipment is still rusty after it was fixed on paper. The plants are still regularly using worn metal tanks to store their products, and relying on rusty rollers and equipment that routinely has contact with the products. Some of the plants use the same oil on their rollers for months and months, although they have certified that they took corrective action to get their program up to standards.

In many instances, the plant workers themselves may be the carriers of filth or disease. I regularly see pigeon droppings tracked around the buildings. The products sometimes fall on the floor and can pick up germs from the droppings. Workers at the plants seldom have sanitary facilities sufficient to keep their hands clean. Since many of the workers are aliens who don't have health cards, I am concerned what types of diseases they may be bringing into the process.

### Different Laws for Different Plants

The third management problem is the inconsistent enforcement of USDA standards at different plants. One reason this occurs is that the veterinarians seem to have different laws for different plants. With respect to suspect tuberculosis carcasses, for example, when inspectors see lesions on the glands or organs (usually the lungs) we are supposed to immediately identify the carcass for the veterinarian to send in and be tested. The carcass must be retained and the test conducted. Some veterinarians actually honor these standards. For example, the veterinarian under whom I now work, Dr. Frederick Herrera, sends in for testing between 90 and 100 percent of the TB-suspect carcasses that I identify. USDA personnel, however, have told me that even this spring other veterinarians frequently refuse to send carcasses in for testing.

The same inconsistencies apply to enforcement of the sanitation laws. For example, while a circuit supervisor may literally nitpick at one plant, the same supervisor will not require corrective action for rusty rails in the cooler, green and black molds in the walls, or holes in the roof at other facilities.

I suspect that in some cases the reason for the favoritism with the plants is supervisory favoritism for the veterinarians assigned to those plants. Circuit supervisors are the midmanagement officials who run the USDA program in the field, and as I'll discuss more later, their performance standards vary based on whether the vet assigned to the facility is in their favor.

## Missed Diseases

A third aspect of the management breakdown involves training. Newer inspectors simply haven't been taught what the symptoms are of diseases that are forbidden by law from going out to the public. For example, over the last years I regularly have seen inspectors miss the symptoms of measles, tuberculosis, cancer, pneumonia, arthritis, jaundice, septicemia, drug lesions indicating injections of chemicals, and even cadavers -- beef that were dead before they were "slaughtered." I can describe the symptoms for the committee, if requested. I know the problems are due to poor training, because the inspectors come to me and ask what the different spots, abscesses, swollen joints, lungs with mucus, watery tissues or discolorations at different parts of the beef mean. Another example involves mareguts. Inspectors have not been adequately trained to check for parasites in these intestines, which are approved anyway for public consumption. I regularly have found instances over the last year where parasites in the mareguts were missed.

Although most of the publicity on USDA inspection problems involves beef and poultry, there are similar problems for inspection of pork. For example, many of the diseases that I just listed are missed by USDA inspections of pork as well as of beef. The products nonetheless are approved and go out for the public to eat. USDA inspectors regularly miss parasites and degeneration in the kidneys of the swine, again because of lack of training. Sanitation standards are indefensible. For example, almost 100 percent of the time, during slaughter of swine, kidney urine drips onto the carcasses, and that's a contaminant. Pieces of lungs have been left in the diaphragms and the rib cages of the carcasses. That's a contaminant. I see adhesions -- dirty inflammation that is left after we have gotten rid of the pus from abscesses that are left in the carcasses. And even more frequently I see abscesses that remain in the carcasses after they have been approved for public consumption. It has gotten so bad that urine-soaked fat from the hog's diaphragm is pulled from the carcasses to be used for cooking oil, even before the rest of the swine is washed.

## Harassment and Lack of Management Support

In my experience, what's behind this sorry record is lack of management support for the veterinarians and inspectors who defend the public. To illustrate, during my career I consistently have had performance appraisals that exceed satisfactory, in comparison to the job standards. Yet I have only been promoted once. Personally, I have been fortunate recently to work under veterinarians who support me against harassment from the plants. That hasn't always been the case. I am sorry, however, that now these same veterinarians who have shielded me from harassment are getting it even worse, from USDA management at the circuit supervisor level.

To illustrate, four veterinarians in the southern California area who have reputations for supporting their inspectors against company harassment are now expected to be fired. This is the conventional wisdom, because agency management seems to be building phony paper trails against these veterinarians. I would like to talk about one case study, Dr. Herrera, whom I work under currently. Dr. Herrera is an honest veterinarian who has stood up to pressure and enforced the law for the last 20 years. Until recently he consistently had excellent performance appraisals. I would like to discuss a few examples of plants that he cleaned up in the 1983-84 time period, to show the type of work Dr. Herrera does.

At one facility, for example, when he arrived there were many roaches in the government office. You could open your desk and four or five would come out. There was rusty equipment, cracked walls, filth and rust getting into potable water used in the chill tanks to wash chickens. There was even a big hole in the wall that was so bad the bees had made a beehive inside the poultry plant. The pallets were in disarray and the paint was peeling all over. Although the management complained a lot, Dr. Herrera stuck to his guns and upgraded that program. At another plant, around the same time, he again found peeling paint, holes in the wall, equipment stacked up, dry storage and cardboard scattered all around, which made a breeding ground for insects, rusty rails and chains and similar problems. He made the company patch the holes in the wall, repaint them, organize the dry storage, and derust the rails. He even had exhaust fans and vents installed to cut down on the excessive condensation that was dripping onto products.

The management reaction to Dr. Herrera's efforts at these two plants was interesting. The predecessor who had left behind those problems and was promoted to circuit supervisor got cash awards for the agency's performance at those plants. Dr. Herrera got nothing except some criticism that he hadn't cleaned them up fast enough.

Last July, Dr. Herrera arrived at the plant where I am currently assigned. When he came, the plant was known as a problem facility. There were cracks in the floor, no overhead cover to serve as a roof in the equipment cleaning room, paint and loose plaster all over the place, condensation over the electrical tenderizing machine, rusted doors, no rack for dry storage, and not even a hot water hose to clean the split saw that is used for sanitizing purposes after it touches condemned carcasses. There wasn't any screen for the windows there, which allowed flies to come in. There were rusty light fixtures in the coolers, and the drains were backing up daily. The beef carcasses were touching the rails, and the containers were not marked to distinguish between edible and inedible products. Overall, the morale of inspectors was very low.

Dr. Herrera has made major efforts to solve all of these problems. You can't make a new plant out of an old one, but I would estimate that is at least 50% more sanitary than before he came. He also created a teamwork approach among the inspectors, so that we have pride in our performance at that plant and are involved in the decisions. He started using swab tests to check for antibiotics and other illegal drugs in the beef carcasses. Dr. Herrera found many violations in these carcasses. Until his arrival, the most recent previous tests had been in April 1985. He also started sending in tuberculosis samples again, and on many occasions has identified TB carcasses which were then condemned. He has received numerous awards even this year for finding TB carcasses.

The management reaction to Dr. Herrera's improvements has been to inform him his efforts are unsatisfactory and to imply that he could be fired as a result. That is unfair. He is just as good a vet as he ever has been. The tactics that management is using against him help reveal the pressure that honest vets and inspectors face if they try to actually enforce the law in the field.

One tactic has been to issue counseling letters to Dr. Herrera, ordering him to take the same sanitation steps he routinely does anyway.

Second, the circuit supervisor has issued charges that Dr. Herrera personally had only written up five plant violations in 1987. But his team had written up 27 violations, because he taught the inspectors what to look for and insisted that they enforce the law.

Third, the circuit supervisor has come in before hours at the plant, and found violations that Dr. Herrera would routinely look at once the plant opened for business. The supervisor then has charged that he was missing violations of law.

Fourth, the circuit supervisor follows Dr. Herrera around on his sanitation checks, and writes him up for missing the picky problems when he had identified the serious deficiencies. It's impossible to clean up everything that is dirty, and I could find still more violations if I followed behind the circuit supervisor.

The supervisors have enforced inconsistent standards at the same facility. When Dr. Herrera is on duty, he is written up for the same type of behavior that is consistently aceepted when a relief vet or other veterinarian replaces him -- let alone veterinarians at other plants that may be in far worse condition.

The management even went so far as to accuse Dr. Herrera of having an affair with another USDA employee. When Dr. Herrera called the agency's bluff and insisted that they produce proof for the charges, his supervisor backed down. But a whispering campaign began. This is unfair. Dr. Herrera is a religious, very honorable family man. All in all, his and similar experiences must discourage other veterinarians from trying to support their inspectors and enforce the law consistently.

## Corruption

The final area that I think this committee should be aware of is petty corruption within the midlevels of USDA field supervisors. Inspectors can't help wondering, in talking among ourselves, why the same supervisors who accuse vets of having sexual affairs are openly having affairs with USDA and plant employees under their control. We shake our heads when we hear of instances such as a supervisor who called in sick but was seen by an inspector's wife working that same day at local veterinary clinic.

Mr. Chairman, these are just a few of the types of problems I told the review team. I would have told them more, but they seemed to lose interest after a few hours. Maybe that's why the practices that I described today have continued over the last year. As long as the mismanagement continues, then filthy or diseased products will keep being approved for consumers to eat.

I have heard that the new National Academy of Sciences (NAS) report recommends changing the USDA label. I agree. It should be changed from "USDA inspected and approved" to "eat at your own risk." NAS only talked about the problems where USDA's approach is outdated. That may be true in some cases. But from what I keep seeing in the plants we need some more old-fashioned values, like respect for the law, keeping filth out of our food, and the freedom to do our jobs.

V.G.

EXHIBIT 1

## AFFIDAVIT

v.g.

My name is VERNIE ~~Vernice~~ Gee. I am a GS-7, Level 10 Meat and Poultry Inspector in the Long Beach area office, Food Service and Inspection Service, United States Department of Agriculture (USDA). I have been an inspector on the kill floor since March 7, 1958. I am giving this affidavit freely and voluntarily, without any threats or inducements, to Mr. Thomas Devine, who has identified himself to me as the Legal Director of the Government Accountability Project. This statement evidences my concern at the failure of the meat inspection service in my area to catch more than 60% at most of the off-condition meat before approving it for consumers; and at the mismanagement, abuse of authority, and retaliation that caused this abysmal record, which continues to the present.

### 1. Inconsistent Inspection Standards

In my experience, the only thing consistent about USDA inspections is their inconsistency. The inconsistencies involve two types of inspections -- those for sanitation, and those for symptoms of disease in the carcasses. From my own observations and discussions with other inspectors, I know that some plants have been penalized for off-condition meat through a 60% condemn rate, while others with similar problems have had a 100% pass rate.

Some of the sanitation violations I have cited firms for included flies, tapeworms, and leaving old previously condemned goods in the chitterling room with the hog intestines. There was hair and fecal material in the chitterlings, as well as noodleworms

U.D.

-- which are thicker than fishing worms and live in the intestines. The pigs feet had hair and hair roots. In 1978 or 1979, I was overruled four or five times when I tried to issue these citations at Farmer John's after company management appealed. This pattern continued into 1984.

On balance, the level of sanitation at plants in the Los Angeles area is flatly unacceptable. At most of the plants where I worked, the ceilings leaked. This allowed dirty water -- possibly packed with bacteria -- to drip regularly into the meat.

The most pervasive problem, however, has been rats. Heinz Packing, where I currently am assigned, is the only plant where I have worked without rats. I am not talking about occasional traces of rats. The rat droppings were so prevalent that they could be noticed without any special equipment. Most noticeable was the rats themselves. They were huge -- up to a foot long -- and the workers killed them with sticks. I have seen rats at [illegible] (now called Goldpak), United Dress Beef, Union Packing [illegible] and Surview.

Rats can be controlled by covering cracks and improving sanitation. I told my supervisors about these conditions when I observed them firsthand, and wrote special reports, but no significant actions were taken other than to clean up the immediate area where I would tag. In my experience and according to other inspectors, the rat problem continues as bad as ever.

The conditions in 1979 at Union Packing Company, where I was assigned, illustrate the breakdown in sanitation standards. There was paint peeling and cement chipping off the walls on a

V.B.

regular basis. The walls themselves were filthy and there were holes in the floor. Rats were all over, as were their drippings. The problem was especially bad in the boning room. I found dead rats in the machinery, such as the stuffing machine for sausages and the beef dicer.

Some of these filthy operations may be functioning without a license. That was the case last year at Union itself, according to a conversation I overheard between two vets. Animals were killed by a particular individual without a license for years at [illegible] and later Sierra v.b. Surview. Although the USDA eventually became aware of the practice, to my knowledge production was not interrupted.

I have reported the violations whenever I saw them, but inconsistencies developed because of USDA management. At the small plants I can make my decisions stick, even when I have stopped work. But at the larger plants it is not uncommon for my supervisors to overrule me and let the company off with a warning. In fact, since 1983 supervisors have ordered me not to condemn meat for fecal contamination and threatened to have me removed from the Basfcs v.b. Goldpak plant when I asked company management to stop the line to clean up the line and the beef carcasses on it. The employees at the plant were working on the line without cleaning off pus from their hands, aprons, and equipment. As a result, the problem of viscera -- animal guts such as liver contaminated with fecal material, pus, and abscesses -- got worse.

Since 1983 Dr. Weber also has issued a memo that inspectors are not to condemn guts for having bile ON in them. Last summer at
Due To the A.C.I. Program on Beef TRIPE

U.B.

Farmer John's the company was taking the heads of condemned animals off the conveyer belt instead of isolating them in the retain cage. These heads, which I marked with ink, were full of pus and fecal material. The company then tampered with the evidence by washing off the heads to get rid of both the contamination and my markings. Then the company complained about me to agency management. Instead of taking enforcement or compliance action against Farmer John's for failing to keep condemned product isolated in the retain cage, USDA management verbally reprimanded me for condemning the meat in the first place.

Similarly, management restricts us from requiring that contaminated meat be trimmed off. Washing is accepted as a substitute, although it does not get rid of all contamination.

Another management tactic has been to restrict the equipment that we use in our inspections. For example, a useful tool listed in the equipment book to control rats is called the "black light." This is like a fluorescent light which highlights rat tracks and rat droppings (fecal or urine) that are left on meat. Normally these traces are not visible or are very hard to see. Until around 1979 I used the black lights and they helped me to find evidence of rats and identify meat that should not be passed to consumers. But Dr. Weber has ordered the inspectors to stop using this tool.

One of the basic causes for poor standards is lack of training. Inspectors do not know what they are doing because they have not been taught. For example, not all inspectors have been cross-trained between meat and poultry inspection techniques. They are trained in one but are responsible for both. In one case of which I am aware, a new inspector only received approximately two hours of training and that was from another inspector. The new inspector did not receive any training from a vet. Inspectors periodically complain, "They're running all over us. We don't know what we're doing." To illustrate the effects, inspectors often do not reject products for fecal material, because they are not trained to and company officials say it has never been done in the past if inspectors take the initiative.

At some of the larger plants the inspectors do not always even conduct the sanitation checks, which instead on occasion have been performed by company personnel. The inspections are a USDA responsibility, however, and the USDA inspectors sign-off on the inspection conducted by the companies. I am familiar with this practice, because I observed inspectors and veterinarians just sitting around drinking coffee instead of conducting the inspection, and then falsifying the reports.

From my observations, the USDA's national reviewers from Kansas City do not serve as an effective system of checks and balances for uniform standards. For example, Quality Meat Packing Company, one plant where I was assigned, commonly had roaches, feathers, flies, pieces of paint, condensation and fecal material mixed in with the product. Equipment, workers and products were not properly washed. The pump was not installed to add chlorine to the water. Yet, somehow the national reviewers gave this plant a "3", the highest rating. Based on my

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observations, their conclusions may be due to superficiality and a lack of independence. Instead of looking at the areas where problems might exist, the reviewers checked peripheral items such as how the viscera gates were separated. Instead of speaking with the inspectors, the reviewers spent their time with the plant owner. This was typical of the reviews which I observed. In my entire career, I have never witnessed a reviewer rate a plant unsatisfactory, even when there were roaches, rats, filth, and broken windows for flies to come in. I once asked a supervisor how these plants could get satisfactory ratings. He explained that it was most likely due to the economic consequences of shutting them down.

These same inconsistencies weaken the reliability of inspections that are supposed to catch meat from diseased animals. For example, I have also observed inspectors falsifying Acceptable Quality Level (AQL) weekly monitoring reports of inspections by plant personnel.

Under the general inspection program, inspectors check for symptoms of disease and write up any findings. The USDA veterinarian, however, makes the final decision on whether to condemn the meat, send off a sample for further testing, or overrule the inspector. The veterinarian is supposed to cut into the glands for further examination before making a decision. Based on my experience, however, routinely they do not fully cut into the glands before approving the carcass. This practice also is continuing and has been for the last nine or ten years.

To illustrate, during 1983 and into 1984, I personally witnessed at least 100 instances when a carcass showed extreme symptoms of tuberculosis (TB), but the veterinarian overruled the inspector and approved the meat without first sending it to the laborabory for analysis, as is necessary. I am quite familiar with tuberculosis symptoms, because I have received two awards for finding TB symptoms less obvious than the cases overruled by the veterinarians. The symptoms include unique abscesses in the glands.

Based on my experience, TB is not an isolated instance of a disease that USDA veterinarians may be missing. Eight other examples that were still occurring in 1983 and 1984 further illustrated my point:

Flemia
[illegible] -- This is beef infiltrated with multiple abscesses. I would estimate that the inspection service misses 3-4 cases per lot of 50. In some of the cases I observed, the beef spleens and livers were full of abscesses, the glands were swollen, and pus was running down the diaphragm. I have also observed symptoms of this condition with swine. In some instances, the vets condemn the meat initially and then reverse themselves after the company officials complain. The plants where I saw this problem included Hall I, Farmer John's, Goldpak and Surview. These problems persisted in part because the vets often spent their working hours reading the newspaper and would approve the animals in bulk during the lunch break. The same type of problems occurred at Quality Meat Packing, with respect to animals diseased with viscera and full of pus.

Septicemia -- This is beef with symptoms of anemia, congestion, localized inflammatory adhesions, and various

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degrees of discoloration and emaciation. I have only seen a few cases in my career where meat was condemned for this disease, although I see the symptoms on 1 out of 50 to 60 carcasses.

**Melanosis** -- Beef with melanosis has symptoms of discoloration through dark black spots that form on the spinal column and lungs. The condition leaves the beef unwholesome. I have seen these symptoms in varying rates, from 0-1 out of 50 carcasses, to 10-12 out of 50. It is more common in cows. I have never seen a vet reject beef for this condition.

Epithelioma -- This is also known as "cancer-eye" and involves growth on the eyes, which are swollen, completely closed and sometimes discolored. I see the cancer-eye condition frequently, up to 5-6 cases per lot of 50. But I have only seen carcasses rejected for this condition 5 or 6 times in 15 years. In addition, I have seen veterinarians removing tags left by inspectors on cancer-eye cows.

Brucellosis -- This disease is like malaria or a severe fever. It is also contagious to humans. It occurs most frequently in hogs and unborn calves and is the most severe with beef. I am aware of at least one survey where 20% of the swine in the sample had this disease. Yet there is no regular USDA testing program that I am aware of for brucellosis. In my entire career, I have never seen a veterinarian send a sample in to the laboratory unless the carcass first had been tagged by the state.

Pnuemonia -- The symptoms are primarily in the lungs, which are very heavy with mucus, and occasionally abscesses with pus, along with sometimes an inflamed liver. Usually the vets pass

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the carcass unless there is an extreme case, and even then sometimes it passes. During the Years Run 1976 Thru-1983 fall of 1983, I personally observed around 20 cases with those symptoms. Only About Ten two were condemned. In many cases the vets pulled the tags off. The problem of abscesses in livers was particularly bad at the Beefco plant, based on my experience and discussions with other inspectors.

Degenerative_Conditions -- These include fatty tissue that make certain areas unwholesome. That occurs erratically, from a rate of 1 out of 200 to 8 out of 50. But I have only seen it condemned 6-8 times over the last 15 years.

Focal_Hemorrhage -- This is bruised meat, where blood cells pass through unruptured vessel walls and into the tissues. This meat can legally be used for dog food, but the plants like to mix it in with ground beef. When inspectors uncover this condition, they should have any tainted meat cut off from the rest. Depending on the plant, the condition can show up from 2-6 times per lot of 50. But I only have seen it cut off up to 3 times per year when at all.

II. Mismanagement,_Abuse_of_Authority_and_Corruption

Mismanagement is behind the lack of reliable inspection results. Management does not back the inspectors against the larger firms. A breakdown in the merit system has permeated the program in my experience. A major part of the problem is collusion, which includes corruption in some instances. For example, I have seen gifts of meat presented to supervisors. In January 1985, I repeated testimony to the Inspector General about 1975 and 1980 incidents which I had reported to the IG

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previously. I also informed the IG of a current example where I suspect bribery in the continued failure to reject or even test beef with symptoms of measles. CYSTICERCOSIS J.B.

The breakdown in the merit system is particularly demoralizing. If you make waves by even questioning management policies, you can expect a lower performance rating. I know, because I have witnessed it repeatedly among the more conscientious, honest inspectors. I am also aware of a case where a highly-respected black woman inspector was fired a few days before the end of her probationary period. The general perception among the inspectors was that her dismissal was due to challenging agency policies, such as why the vets were skipping certain professional procedures in their examinations. In fact, another supervisor later threatened to fire Mr. Natividad, who is an excellent but outspoken inspector, "like the black lady," if he did not stop issuing retain tags which the companies were complaining about, or at least stop protesting the frequent transfers to which he was subjected.

Promotions are based on the "buddy system," rather than objective qualifications. Pre-selection is done fairly openly. For example, although rated "highly qualified," I have been passed over for promotions 8 times in favor of those lower than me on the list of eligibles.

There is a definite relationship between the USDA management coziness with industry, and the attitudes of supervisors and inspectors in the field. To illustrate, a supervisor expressed nervousness to me that his rate of condemnations was too high.

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He was worried about pressure from higher management in the agency. Currently many of the inspectors at one plant I identified to the IG in January do not even look anymore at all the items they used to check. They explain to me that tagging the problems just leads to complaints from their supervisors.

If anything, local management's abuse of its own personnel became worse over the last few years. An incident this last summer, where I was reprimanded for getting beat up, illustrates what inspectors have to contend with, and why they become hesitant to enforce the law. The incident occurred on June 7, 1984, at the Stockton plant, where I had been putting retain tags on beef that was getting contaminated, due to being stacked on a rail and making contact with hides. An individual named Manuel Cordero, whom I had never spoken with before, loudly asked from a platform in an angry tone, "What's wrong now?" I said nothing was wrong. Manuel came down from the platform and approached me. I told him to talk with his foreman. He said he did not want to; he wanted to speak with me. As I turned and was looking around for his foreman, Manuel hit me twice around my eyes. I was stunned and began to slip on the meat floor. Manuel then put me in a necklock and started trying to put his thumb in my eye. At that point, some other workers pulled him off me. The police came and took a report, attached as Exhibit 1. I also spoke with the Inspector General, whose representative Craig Beauchamp told me in January 1985 that Manuel had disappeared.

The physical consequences were very painful for me. I was hospitalized and did not return to work until October. The doctors diagnosed that I had received acute strains and sprains

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of muscles and neck ligaments. Due to the neck injury, I could not sleep lying down for weeks. I had to sit up. I still do not have complete freedom of movement. For a day I could not see out of my left eye. Severe pain persisted for two months.

The agency's response was to place me on Leave Without Pay
MY SUPERVISOR, INFORM ME ON AUGUST 8-1984 THAT MEDICAL CERTIFICATION WAS ACCEPTABLE TO HIM DR. RUCIO, AND ANY FUTURE ABSENCE EXCEEDING 3 (THREE) WORKING DAY IN WHICH I AM INCAPACITATED
(LWOP). I did not start receiving workmen's compensation money for the time off work until late October 1984, JUST BEFORE V.B. ~~after~~ I had returned to work. My attorney told me that the delay was because the Area Director, Dr. Weber, was tardy sending in the forms.

Area management was not satisfied to leave me without income during my recovery from the attack. They decided to punish me as well. On June 13, 1984, I received a "Memorandum of Instruction" from the Circuit Supervisor instructing me "to refrain from dealing directly with plant employees and to deal instead only with the plant supervisors. . . ." The Memorandum of Instruction is enclosed as Exhibit 2. I found it strange to receive this instruction, since it told me to behave the way I already was handling myself.

On July 30, 1984, before I could act on the "instructions" or return to work at all, I officially was punished with a Letter of Caution from Regional Director Dr. Breeden, which is enclosed as Exhibit 3. Although neither Dr. Breeden nor Dr. Weber had spoken with me about the incident, Dr. Breeden concluded:

> As a Federal employee, you are expected to maintain high standards of behavior both on and off the job. It appears that you placed yourself in a position by your actions, that may have provoked the plant employee. You were also remiss in a performance of your duties, in dealing with a plant employee rather than plant supervisors. . . .

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> I am limiting action in this matter to this letter of caution. You are warned that further actions of this nature or any other instances of misconduct on your part will be cause for more severe.disciplinary action against you.
>
> This letter will remain in your temporary work folder for one (1) year from the date shown above.

I believe that the Memorandum of Instruction and the Letter of Caution both were disciplinary actions taken in reprisal for my persistent internal challenges to management of the poor inspection standards described above, and for performing my duties at Stockton, without regard for the consequences. From conversations with supervisors, I have learned that the Stockton Company President told Dr. Weber that I provoked the fight. The only way that I could have "provoked" it was by rejecting illegal sanitation practices. I did not know Manuel, had never spoken with him before and did not initiate the conversation that led to my beating. I was merely doing my job -- no more and no less.

Although neither Dr. Weber nor Dr. Breeden heard my side of the story directly, my supervisor Dr. Rucio told me that the letter of caution was based on the IG report. But I since have learned that there was no IG report when the letter was issued. The report was issued November 30, 1984.

Even if it were not retaliatory, the disciplinary action was illegal under our union agreement, which says that issues under counseling should not be resolved through disciplinary action. An attempted October 23, 1984, grievance, which Dr. Breeden refused to process, is enclosed as Exhibit 4.

Since my return I have been assigned to one of the few good plants in the Los Angeles area, working under an honest, conscientious veterinarian. I am in the process of rotation, however. I am seriously worried that I might be placed in a position again where I will be assaulted,-- and this time suspended or fired -- if I attempt to continue carrying out my duties as a federal meat inspector.

I have read the above 14-page affidavit, and it is true, accurate and complete, to the best of my knowledge and belief.

Vernie Gee
~~Vernice~~ Gee
VERNIE GEE

SUBSCRIBED AND SWORN TO before me this 11th day of March, 1985.

Olivia P. Spruill
Notary Public

Oct. 22, 1986
Date Commission Expires

OLIVIA P. SPRUILL
My Commission Expires October 22 1986

CNI
Community Nutrition Institute 2001 S Street N.W., Suite 530 • Washington, D. C. 20009 • (202)462-4700

Mr. Chairman, members of the committee:

I appreciate the invitation to testify on management aspects of poultry inspection. Poultry Inspection Management is a public health service which materially affects the quality of the nation's food supply and the health of the American people. Today, it is a national scandal. I am the Executive Director of the Community Nutrition Institute, a non-profit organization that examines national issues in food policy, including food safety, from the consumer perspective.

Douglas Archer, Director of the Division of Microbiology at the Food and Drug Administration (FDA), estimates that total cases of diarrheal disease in the United States each year range from as low as 69 million to 275 million. Archer notes that some studies at the Centers for Disease Control (CDC) put the figure as high as 375 million cases. About half of these cases are from pathogens in food, such as salmonella bacteria. The difficulty in pinpointing a more precise number is two-fold: First, food poisoning symptoms are very similar to flu, and most people do not report the illness. Yet, food poisoning is a far more serious condition than an upset stomach. Second, public health disease surveillance depends on a passive reporting system, which means that any real documentation is not possible.

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Statement prepared by Rodney E. Leonard, Executive Director of the Community Nutrition Institute for the Senate Committee on Governmental Affairs, Friday, May 15, 1987.

Assuming that upwards of 80 million Americans contract food poisoning each year, about 50 million of those cases are likely due to salmonella organisms on poultry.

About 2 percent of people in outbreaks of food poisoning will develop reactive arthritis, Archer said. These symptoms appear about three weeks after diarrhea, and few, if any, consumers will connect the two incidents. He also said that yersinia, another food-borne bacteria, has been implicated in Crohn's Disease, an intestinal disorder that is linked with heart problems, psychiatric disorders and some cancers. Salmonella also is indirectly a cause of ankylosing spondylitis, a bone condition that weakens the lower spine. Campylobacter, an organism that is commonly found in poultry, is a cause of Guillain-Barre syndrome, a neurological disorder.

The economic cost of a disintegrating food safety shield is high. Annual medical expenses and lost wages for food-related illness are estimated to cost the American economy between $40 billion and $164 billion.

Until recently, government agencies, the poultry industry, food retailers, nutritionists and dieticians, and other health professionals have washed their hands of food-borne illness problems. The best defense, consumers are told, is to wash fresh poultry carefully, wash your hands after handling poultry, wash knives and utensils, and cook meat thoroughly. Blaming the victim does not wash as a strategy anymore, according to several new studies. USDA's Agricultural Research Service (ARS) recently concluded that no amount of flushing will remove salmonella from poultry once it is on the bird. In Holland, scientists studied the extent of bacterial contamination throughout the houses of several hundred families after chicken contaminated with salmonella was prepared. They found heavy loads of bacteria, even after washing, on cutting boards, plates, kitchen taps, dish cloths, tables and door handles. The organisms survived for long periods of time, often reinfecting poultry when it was removed from the stove. If these conditions prevail in the home, they also will be found in restaurants and institutional kitchens. When poultry is brought into the kitchen, Diane Roberts, a British hygienist, said at a 1984 symposium on salmonella, the organisms it carries are sprayed about and general hygienic practices are swamped.

The American people have changed their eating habits believing it was in their best health interest. They have been let down by the poultry industry, which apparently does not consider a clean product its responsibility, and by a compliant Executive branch and a Congress that is unable to secure compliance with the law.

The problem is that poultry is a dirty product, with more than one of every three broilers reaching the marketplace contaminated with harmful organisms. In some instances, USDA found 80 percent of the output of one plant to be contaminated. The solution to the problem is to clean up poultry, an objective that effective management of inspection programs and processing plants can accomplish.

Yet we have come to this state of affairs with our eyes wide open. No one should be surprised. Since 1960, poultry consumption has increased steadily in the U.S., rising from about 30 pounds per capita to almost 78 pounds this year, according to USDA estimates. Beef consumption, in contrast, rose from over 60 pounds per capita in 1960 to 94.4 pounds in the mid-1970s, after which it began to drop, falling to an estimated 74 pounds per capita this year. Pork consumption has remained relatively steady around 60 pounds per capita during this period.

Thus, in hardly more than a quarter century, poultry has changed from an ugly duckling to the darling of American consumers.

The fast food industry also has been a factor due to its search for new products with low-cost ingredients. The poultry industry has been quick to respond to these new demand characteristics, offering a lean meat source at low cost to the health-conscious household and presenting an array of new products (chicken parts, planked chicken, nuggets and pre-cooked products) to fill the convenience void.

While health gains from lower cholesterol may be smaller for most consumers than they have been led to believe, there is no doubt that Americans are at greater risk of food poisoning today than at any time since the federal government took on the job in 1906 of guaranteeing food safety. Food poisoning has become epidemic today, and the proportion of American people who experience food poisoning has increased as steadily over the past 25 years as the consumption of poultry, now considered by health experts in and out of the federal government as the primary source of food-borne illnesses in the American population. The National Academy of Sciences report (NAS-II) issued earlier this week found that the incidence of salmonella-caused food poisoning has doubled since 1960.

USDA economists, quoted in the March issue of **Farmline** magazine, say that 95 percent of the meat and poultry pattern can be explained by production and price data. Since 1975, beef and pork prices have climbed faster than poultry, giving the poultry industry an ever-widening price advantage. Production of beef and pork fluctuates in cycles, a pattern that has been adversely affected by wider swings in economic conditions and climatic variables than usual. Drought in the cattle raising area over several years has held down beef production, and high debt loads together with the loss of equity from falling land prices have hurt beef and pork more than poultry.

The structure of the poultry industry differs significantly from that of beef or pork. Land is not an important production resource for poultry, mainly because 20,000 birds can be produced in one brooder house that requires relatively little space. The poultry industry, contrary to beef or pork, is highly concentrated and vertically integrated, with fewer than 45 firms accounting for over 90 percent of production. Three firms — Tysons Foods, Perdue and Holly Farms — account for most of that, and their control is awesome. Each firm tightly controls production, packaging, distribution and promotion, a situation that enables the firms to establish brand loyalty (and product differentiation to permit price discrimination). Vertical integration also means the poultry processors can move more quickly than red meat competitors to take full advantage of cost reductions and economies of scale. The structure of the industry also means that poultry firms can easily control safety and wholesomeness. For the industry, however, wholesomeness is always a trade-off with production. Clean products cost more.

Red meat, in comparison, is produced by thousands of independent operators over whom the processors, or meat packers, have little control. Vertical integration is not possible under these circumstances, which means that production adjustments occur over several months, if not years, compared to weeks in the poultry industry. Biology also contributes to the delay. Broilers reach the market in 10 to 12 weeks after the egg is fertilized. Cattle average 30 months from conception to slaughter, while hogs average 7 to 9 months.

Biology and market structure aside, the shift in demand characteristics by American consumers over the past 20 years has contributed significantly to the rise in poultry and the decline in red meat. While economists have yet to find a way to incorporate consumer preferences in their equations, they all know they are there. Nutrition, or the impact of diet on health, has become a major factor in the market behavior of consumers, according to every public and private poll. In addition, with more two-income households and the rise of the single-parent (mostly female-headed) family, convenience has become an essential characteristic of today's food marketplace.

From 1967 to 1969, I served as Administrator of the Consumer and Marketing Service of the Department of Agriculture (USDA), the agency then responsible for meat and poultry inspection. Prior to that I held various positions within the Office of the Secretary where my major responsibility was food safety. Management determines whether meat and meat food products in the U.S. are safe and wholesome. (The term wholesome conveys the policy of risk avoidance — the assurance that no harm will occur now or at some later date to consumers of federally inspected meat and meat food products.) As Administrator, I initiated legislation in 1967 that provided the first major reform in the Meat Inspection Act since the legislation was originally enacted in 1907. A year later the Consumer and Marketing Service proposed and Congress enacted legislation to similarly revise the Poultry Inspection Act. That same year I merged meat and poultry inspection services. Until then, each had operated as independent services with separate and generally uncoordinated management staffs and field organizations.

When I left USDA in early 1969, meat and poultry inspection (MPI) had a new management team and a renewed legislative mandate to inspect every carcass slaughtered — beef, hog or poultry — for wholesomeness. More than 10,000 federally employed inspectors and veterinarians were working with one purpose in mind — to protect the public through a policy of risk avoidance. We had a clear objective: Congress had mandated that only wholesome food would be available. We had sufficient resources: Congress provided the money and manpower necessary to do the job. And, the structure was in place: We merged poultry inspection with meat inspection to demonstrate the federal government was in control of food safety.

The situation has changed dramatically in the past 20 years. Poultry is no longer a wholesome food. It should carry a warning label. Some of the reasons for its increased hazard to public health include:

1. Congress is no longer setting food safety policy. USDA Meat and Poultry Inspection (MPI) by has defined its own set of policy objectives. In response to the first National Academy of Science (NAS-I) report evaluating the effectiveness of the inspection progrem, MPI says its first priority is to transfer its legislative authority, primarily to "give full responsibility to industry for compliance" with the law — i.e., it wants to give the regulatory task to the industry being regulated. This has already been implemented. Secondly, MPI wants control of its own research agenda. This may seem a bit odd, at first glance, but on fuller examination the real problem will become visible. MPI has used Agriculture Research Service (ARS) to provide the research support it needs; however, ARS has not produced the research solutions that MPI wants. ARS, for example, has told MPI that its search for chemical means to control contamination in poultry is untenable.

2. MPI is understaffed and underfunded. The meat and poultry staff has decreased by some 3,000 persons, mostly inspection personnel. Funding for meat and poultry inspection no longer is adequate to support an effective MPI. Top officials justify inadequate food safety by arguing that funds must be diverted

over trade restrictions, a useful task, perhaps, but not the responsibility of MPI. The agency is unable to provide a consistent level of performance among its regional offices.

4. MPI has a major employee morale problem, but follows practices that make the situation worse, not better. In effect, there is much confusion over who is in charge of food safety in USDA and what is actually being done.

This is not a problem that can await further study, or an isolated management breakdown, or a top priority research task. It is a major threat to public health. People are being hurt, and some of the people who have died from food poisoning could be alive today if we had an effective program of risk avoidance in meat and poultry inspection.

It is both odd and telling that management in the poultry industry is able to control everything it wishes to control -- production, processing, research, packaging, marketing and the inspection service — but is not able to control bacterial contamination.

This simple fact, more than any other, defines the policy issue for Congress and the management task for the Executive branch: Who is in control of food safety? The heart of the matter is a policy dispute, a question of values and priorities, not a technical issue or a scientific question.

Industry would have you believe the problem is the consumer's; i.e., if a consumer gets sick, it is because he implemented poor hygienic practices. USDA would have you believe it is a research task to find a way to clean up dirty birds after they have been processed. Both industry and the present management of USDA are following the same management philosophy in food production as that which nearly killed the American automobile industry — i.e., push the product through the plant as fast as you can and clean up the mistakes afterward. It is an attitude that treats the law with disrespect and the consumer with disdain. It suggests that the regulator and the regulated have a different value systems than does the public.

The community of consultants and academic advisors would have you believe, as NAS-II, that the problem can be solved with a new set of procedures — i.e., with a process they describe as risk assessment. The only problem is that inspection methodology does not create dirty products. A faulty production system creates dirty products.

Risk assessment, as used by NAS, is terminology for a procedure, a tool; risk assessment, as used by MPI, is a management philosophy, a value system. They are not the same, and Congress should be extremely careful in examining proposals for risk assessment.

The policy question for Congress is whether to continue to employ risk avoidance, as the law currently provides, or to adopt risk assessment, as USDA and the meat and poultry industry are asking you to do. They seem to suggest that the experts favor the latter, when that is not precisely the case.

Risk avoidance, as used in current legislation, requires the federal government, with the cooperation of the meat and poultry industries, to prevent hazardous products from entering the food supply. Risk assessment, as used by USDA and industry, means determining an amount of hazardous substances that can be allowed in the food supply at some reasonable level of risk. According to the NAS-II report, "Poultry Inspection: The Basis for a Risk-Assessment Approach", risk assessment is "an effective tool for dealing with contamination of chickens." As will be seen, NAS's definition is not the same as that of USDA.

Risk avoidance requires the Executive branch to develop an inspection system to insure that products entering the food supply are safe and wholesome. The primary task in risk avoidance is the individual inspection of carcasses to prevent the entry of diseased or contaminated products from entering the food supply. The primary means of implementing this policy is a trained force of public employees who continuously inspects the slaughter of meat and poultry and — until last year — the processing of meat and poultry products. The inspection process is equipped with a number of tools: A clear definition of its mission; A management system dedicated to that mission; An in-service training program; Research on disease organisms and methods to detect and control contamination; and, A public education program. The NAS-II concept of risk assessment may be another useful tool to supplement continuous inspection.

Continuous inspection was, and is, the only method to control the introduction of diseased or contaminated food products into the food system in an industry where slaughter and processing takes place at many locations scattered around the United States. It works because it is a dynamic process — i.e., inspectors and supervisors are public employees who carry out a public health mission. They are not company employees; they are individuals who do for you and me and all consumers what we would do if we could inspect the meat and meat food products we purchase and consume. Meat and poultry inspectors are the consumers' alter ego in food safety.

That is why the industry wants less than continuous inspection, and why USDA is promoting its definition of risk assessment. They do not want me or you — or much less trained personnel — looking over their shoulder while they are producing poultry that is hazardous to public health. We do not need fewer inspectors; instead we need inspectors with more effective tools.

But, more than that, Congress must support an inspection force that seeks to prevent diseased or contaminated organisms from entering the food supply where it can injure or kill people. Inspectors need to know that their inspection force will be supported — i.e., managed — with the best possible tools, technologies and methods.

That is not the case today. Ten years ago, when Secretary of Agriculture Lyng was head of the American Meat Institute, USDA hired a consulting firm, Booz, Allen and Hamilton (BAH), to study MPI and recommend changes to "improve" meat and poultry inspection. BAH recommended that MPI substitute monitoring of industry quality control programs for inspection. MPI should place the "burden of proof" on industry for compliance with the law rather than perform the gatekeeper role of inspection, BAH said. In poultry slaughter, BAH said industry should be allowed to increase line speeds — increase production — by adding plant employees as inspectors on those lines through which the plant wanted to push more production. At least one federal inspector would be required on each line as a way to gauge the work of plant inspectors. BAH justified this gross dilution of inspection with the observation that the results of the new system would be no worse than the current inspection program. No official action was taken on the report by MPI. However, the current experiment to test a modified inspection program (the so-called Third Generation) is basically the BAH proposal with a computer added for window dressing.

In fact, in its 1986 agenda for the future (prepared by MPI in response to the first NAS study), MPI appears to have taken its basic framework from the BAH recommendations. Rather than sort the wholesome from the unwholesome, MPI will "focus" on elimination and control; it will "monitor" systems, rather than inspect product; and, it will give "responsibility" to industry to comply with the law.

"Since it had to (be) assume(d) that it was unlikely that the agency would receive significant new monies to improve its program, NAS suggested that (risk assessment)...would permit the agency to use resources shifted from non-public health oriented activities to improve its public health protection efforts," MPI said as an operating premise for its future agenda.

More than 80 percent of MPI expenditures are for inspection personnel, according to the BAH report, all of whom carry out public health protection roles. Any significant reallocation of resources would have to come from the inspection force, from public health protection.

No further explanation is necessary for the decline in the number of inspectors since 1970, nor is it hard to imagine what the future agenda holds for the current inspection force. Nor should it be difficult to understand why an inspector feels that he or she is being left to "slowly dangle in the wind" by MPI management.

Consider if you will the sense of frustration implicitly conveyed by NAS-II. The Academy experts said poultry inspection "cannot provide effective protection" for public health, but recommended that poultry be labeled to warn consumers of the hazard and stress hygienic practices. No explicit steps were suggested to reduce contamination in plants because "we were not asked to look at technology." Instead they proposed risk assessment methods as "an effective tool;" but, the experts said, MPI has no data to determine the level of risk today nor would MPI "know what to do with the data right now" if it were available. Risk assessment, the experts said, won't be a workable system for at least another 10 to 20 years.

That, however, is not what MPI suggested in its future agenda. MPI said that risk assessment involves three evaluative steps: First, knowledge of the nature and frequency of processing in a plant; Second, knowledge of the adequacy and reliability of product monitoring systems by the company; and, Third, the history of compliance in a particular plant. Risk assessment, based on these criteria, eliminates the need for continuous inspection, according to MPI.

Any observer, at this point, could reasonably conclude that NAS has some other definition in mind for risk assessment than does MPI. MPI does not consider risk assessment as another tool that could strengthen poultry inspection, but instead as a means of replacing inspection with a monitoring system. Even this latter assurance is suspect. USDA used such a monitoring criteria to select 17 plants in Tennessee to participate in a test of less than continuous inspection for processing meat and poultry products. Everything looked fine on paper, but when MPI staff finally got to looking at the physical condition of the plants, five of the 17 were disqualified and removed because of problems that did not show up on the "monitoring" screen.

That experience tends to confirm the NAS II conclusions: MPI could not implement any risk assessment process immediately because the data to support risk assessment is not available, nor would MPI know what to do with the data today if it were available.

The intent of the confusion and contradiction may be to give the public the impression that nothing can be done, or to leave consumers and the Congress no alternative other than to go along with a more drastic measure — such as irradiation. Let me assure you that consumers will reject such tactics: Hell, no, I won't go.

I am not confused, nor do I believe the inspectors in the field are confused. Someone is producing dirty poultry, and that someone is the poultry industry.

The inspectors know when a plant is producing dirty birds, and they know why.

We don't need to wait 10 years or 20 years for a risk assessment system to tell us where the problem is located. We can take significant steps now to reduce the level of contamination in poultry, but it will require the cooperation of the poultry industry and the support of Congress. Consumers are ready now to begin rebuilding an effective, well managed inspection program. It's a matter of health and survival for us.

## CHAPTER 12—MEAT INSPECTION

### SUBCHAPTER I—INSPECTION REQUIREMENTS; ADULTERATION AND MISBRANDING

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This chapter is referred to in sections 321, 392 of this title.

## SUBCHAPTER I—INSPECTION REQUIREMENTS; ADULTERATION AND MISBRANDING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 641, 661, 671, 672, 673, 678 of this title.

### § 601. Definitions

As used in this chapter, except as otherwise specified, the following terms shall have the meanings stated below:

(a) The term "Secretary" means the Secretary of Agriculture of the United States or his delegate.

(b) The term "firm" means any partnership, association, or other unincorporated business organization.

(c) The term "meat broker" means any person, firm, or corporation engaged in the business of buying or selling carcasses, parts of carcasses, meat, or meat food products of cattle, sheep, swine, goats, horses, mules, or other equines on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person, firm, or corporation.

(d) The term "renderer" means any person, firm, or corporation engaged in the business of rendering carcasses or parts or products of the carcasses, of cattle, sheep, swine, goats, horses, mules, or other equines, except rendering conducted under inspection or exemption under this subchapter.

(e) The term "animal food manufacturer" means any person, firm, or corporation engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts of products of the carcasses, of cattle, sheep, swine, goats, horses, mules, or other equines.

(f) The term "State" means any State of the United States and the Commonwealth of Puerto Rico.

(g) The term "Territory" means Guam, the Virgin Islands of the United States, American Samoa, and any other territory or possession of the United States, excluding the Canal Zone.

(h) The term "commerce" means commerce between any State, any Territory, or the District of Columbia, and any place outside thereof; or within any Territory not organized with a legislative body, or the District of Columbia.

(i) The term "United States" means the States, the District of Columbia, and the Territories of the United States.

(j) The term "meat food product" means any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, or goats, excepting products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and which are exempted from definition as a meat food product by the Secretary under such conditions as he may prescribe to assure that the meat or other portions of such carcasses contained in such product are not adulterated and that such products are not represented as meat food products. This term as applied to food products of equines shall have a meaning comparable to that provided in this paragraph with respect to cattle, sheep, swine, and goats.

(k) The term "capable of use as human food" shall apply to any carcass, or part or product of a carcass, of any animal, unless it is denatured or otherwise identified as required by regulations prescribed by the Secretary to deter its use as human food, or it is naturally inedible by humans.

(*l*) The term "prepared" means slaughtered, canned, salted, rendered, boned, cut up, or otherwise manufactured or processed.

(m) The term "adulterated" shall apply to any carcass, part thereof, meat or meat food product under one or more of the following circumstances:

(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2)(A) if it bears or contains (by reason of administration of any substance to the live animal or otherwise) any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food;

(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 346a of this title,

(C) if it bears or contains any food additive which is unsafe within the meaning of section 348 of this title,

(D) if it bears or contains any color additive which is unsafe within the meaning of section 376 of this title: *Provided*, That an article which is not adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Secretary in establishments at which inspection is maintained under this subchapter;

(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(5) if it is, in whole or in part, the product of an animal which has died otherwise than by slaughter;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 348 of this title;

(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is; or

(9) if it is margarine containing animal fat and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance.

(n) The term "misbranded" shall apply to any carcass, part thereof, meat or meat food product under one or more of the following circumstances:

(1) if its labeling is false or misleading in any particular;

(2) if it is offered for sale under the name of another food;

(3) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter, the name of the food imitated;

(4) if its container is so made, formed, or filled as to be misleading;

(5) if in a package or other container unless it bears a label showing (A) the name and place of business of the manufacturer, packer, or distributor; and (B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (B) of this subparagraph (5), reasonable variations may be permitted, and exemptions as to small packages may be established, by regulations prescribed by the Secretary;

(6) if any word, statement, or other information required by or under authority of this chapter to appear on the label or other labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(7) if it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the Secretary under section 607 of this title unless (A) it conforms to such definition and standard, and (B) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common

names of optional ingredients (other than spices, flavoring, and coloring) present in such food;

(8) if it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the Secretary under section 607 of this title, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

(9) if it is not subject to the provisions of subparagraph (7), unless its label bears (A) the common or usual name of the food, if any there be, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the Secretary, be designated as spices, flavorings, and colorings without naming each: *Provided*, That to the extent that compliance with the requirements of clause (B) of this subparagraph (9) is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Secretary;

(10) if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary, after consultation with the Secretary of Health and Human Services, determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses;

(11) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact: *Provided*, That, to the extent that compliance with the requirements of this subparagraph (11) is impracticable, exemptions shall be established by regulations promulgated by the Secretary; or

(12) if it fails to bear, directly thereon or on its container, as the Secretary may by regulations prescribe, the inspection legend and, unrestricted by any of the foregoing, such other information as the Secretary may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

(o) The term "label" means a display of written, printed, or graphic matter upon the immediate container (not including package liners) of any article.

(p) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

(q) The term "Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.]" means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

(r) The terms "pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" shall have the same meanings for purposes of this chapter as under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.].

(s) The term "official mark" means the official inspection legend or any other symbol prescribed by regulations of the Secretary to identify the status of any article or animal under this chapter.

(t) The term "official inspection legend" means any symbol prescribed by regulations of the Secretary showing that an article was inspected and passed in accordance with this chapter.

(u) The term "official certificate" means any certificate prescribed by regulations of the Secretary for issuance by an inspector or other person performing official functions under this chapter.

(v) The term "official device" means any device prescribed or authorized by the Secretary for use in applying any official mark.

(Mar. 4, 1907, ch. 2907, title I, § 1, as added Dec. 15, 1967, Pub. L. 90-201, § 2, 81 Stat. 584, and amended Oct. 17, 1979, Pub. L. 96-88, title V, § 509(b), 93 Stat. 695.)

### References in Text

The Federal Food, Drug, and Cosmetic Act, referred to in pars. (q) and (r), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

### Change of Name

"Secretary of Health and Human Services" was substituted for "Secretary of Health, Education, and Welfare" in par. (n)(10) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

### Effective Date

Section 20 of Pub. L. 90-201 provided that: "This Act [see Short Title note below] shall become effective upon enactment [Dec. 15, 1967] except as provided in paragraphs (a) through (d):

"(a) The provisions of paragraph (b)(1) and (c) of section 10 and the provisions of section 20 of the Federal Meat Inspection Act, as amended by sections 7 and 10 of this Act [sections 610 and 620 of this title], and the provisions of section 18 of this Act repealing paragraph (b) of section 306 of the Tariff Act of 1930 [section 1306(b) of Title 19, Customs Duties], shall become effective upon the expiration of sixty days after enactment [Dec. 15, 1967], hereof.

"(b) The provisions of title I of the Federal Meat Inspection Act, as amended by this Act [this subchapter], shall become effective with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof upon the expiration of sixty days after enactment [Dec. 15, 1967] hereof.

"(c) Section 11 of this Act, amending section 23, of the Federal Meat Inspection Act [section 623 of this title], shall become effective upon the expiration of sixty days after enactment hereof [Dec. 15, 1967].

"(d) Section 204 of the Federal Meat Inspection Act, as added by section 14 of this Act [section 644 of this title], shall become effective upon the expiration of sixty days after enactment hereof [Dec. 15, 1967]."

### Short Title of 1978 Amendment

Pub. L. 95-445, § 1, Oct. 10, 1978, 92 Stat. 1069, provided: "That this Act [amending sections 603, 610, and 620 of this title and sections 1902 and 1904 of Title 7, Agriculture, repealing sections 1903 and 1905 of Title 7, and enacting provisions set out as notes under sections 601 and 603 of this title] may be cited as the 'Humane Methods of Slaughter Act of 1978'."

### SHORT TITLE

Section 1 of Pub. L. 90-201 provided in part: "That this Act [enacting sections 601, 602, 624, 641 to 645, 661, 671 to 680, and 691 of this title, amending sections 603 to 623 of this title, repealing section 96 of this title and section 1306(b) of Title 19, Customs Duties, and enacting provisions set out as notes under this section] may be cited as the 'Wholesome Meat Act'."

Section 1 of Pub. L. 90-201 provided in part that the provisions of act Mar. 4, 1907, as amended, classified to subchapters I to IV of this chapter, are designated as the "Federal Meat Inspection Act".

### SEPARABILITY OF PROVISIONS

Section 19 of Pub. L. 90-201 provided that: "If any provision of this Act or of the amendments made hereby [see Short Title note above] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the remaining amendments [see Short Title note above] and of the application of such provision to other persons and circumstances shall not be affected thereby."

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 607, 676 of this title; title 15 sections 2052, 2602.

### ACT REFERRED TO IN OTHER SECTIONS

The Wholesome Meat Act is referred to in section 1053 of this title.

## § 602. Congressional statement of findings

Meat and meat food products are an important source of the Nation's total supply of food. They are consumed throughout the Nation and the major portion thereof moves in interstate or foreign commerce. It is essential in the public interest that the health and welfare of consumers be protected by assuring that meat and meat food products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded meat or meat food products impair the effective regulation of meat and meat food products in interstate or foreign commerce, are injurious to the public welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged meat and meat food products, and result in sundry losses to livestock producers and processors of meat and meat food products, as well as injury to consumers. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged articles, to the detriment of consumers and the public generally. It is hereby found that all articles and animals which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce, and that regulation by the Secretary and cooperation by the States and other jurisdictions as contemplated by this chapter are appropriate to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of consumers.

(Mar. 4, 1907, ch. 2907, title I, § 2, as added Dec. 15, 1967, Pub. L. 90-201, § 2, 81 Stat. 587.)

## § 603. Inspection of meat and meat food products

### (a) Examination of animals before slaughtering; diseased animals slaughtered separately and carcasses examined

For the purpose of preventing the use in commerce of meat and meat food products which are adulterated, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, sheep, swine, goats, horses, mules, and other equines before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering, or similar establishment, in which they are to be slaughtered and the meat and meat food products thereof are to be used in commerce; and all cattle, sheep, swine, goats, horses, mules, and other equines found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other cattle, sheep, swine, goats, horses, mules, or other equines, and when so slaughtered the carcasses of said cattle, sheep, swine, goats, horses, mules, or other equines shall be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the Secretary, as provided for in this subchapter.

### (b) Humane methods of slaughter

For the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this chapter. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906) until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.

(Mar. 4, 1907, ch. 2907, title I, § 3, formerly 1st par., 34 Stat. 1260, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 3, 12(a), (b), 81 Stat. 584, 588, 592; Oct. 10, 1978, Pub. L. 95-445, § 2, 92 Stat. 1069.)

### REFERENCES IN TEXT

The Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906), referred to in subsec. (b), is Pub. L. 85-765, Aug. 27, 1958, 72 Stat. 862, as amended, which is classified generally to chapter 48 (§ 1901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Tables.

Sections 1903 and 1905 of Title 7, included within reference to act August 27, 1958, were repealed by

Pub. L. 95-445, § 5(b), Oct. 10, 1978, 92 Stat. 1069, effective as set forth in section 7 of Pub. L. 95-445, set out as an Effective Date of 1978 Amendment note below.

### Codification

Section was formerly classified to section 71 of this title.

### Amendments

1978—Subsec. (a). Pub. L. 95-445 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 95-445 added subsec. (b).

1967—Pub. L. 90-201, §§ 3, 12(a), (b), deleted "interstate or foreign" preceding "commerce" in two instances, substituted "Secretary shall" for "Secretary, at his discretion, may" and deleted "of Agriculture" following "Secretary", included horses, mules, and other equines, and horses, mules, or other equines in the list of animals, and substituted "adulterated" for "unsound, unhealthful, unwholesome, or otherwise unfit for human food", respectively.

### Effective Date of 1978 Amendment

Section 7 of Pub. L. 95-445 provided that: "The provisions of this Act [see Short Title of 1978 Amendment note set out under section 601 of this title] shall become effective one year after the date of enactment [Oct. 10, 1978]. However, such provisions shall not apply to a person, firm, or corporation for such additional period of time, not to exceed eighteen months, as may be determined by the Secretary, if the Secretary, upon application, finds that compliance with the provisions of this Act on its effective date would cause undue hardship on such person, firm, or corporation."

### Effective Date of 1967 Amendment

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

### Religious Freedom; Ritual Slaughter

Section 6 of Pub. L. 95-445 provided that: "Nothing in this Act [see Short Title of 1978 Amendment note set out under section 601 of this title] shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of this Act, in order to protect freedom of religion, ritual slaughter and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of this Act. For the purposes of this section the term 'ritual slaughter' means slaughter in accordance with section 2(b) of the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1902(b))."

## § 604. Post mortem examination of carcasses and marking or labeling; destruction of carcasses condemned; reinspection

For the purposes hereinbefore set forth the Secretary shall cause to be made by inspectors appointed for that purpose a post mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, goats, horses, mules, and other equines to be prepared at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment in any State, Territory, or the District of Columbia as articles of commerce which are capable of use as human food; and the carcasses and parts thereof of all such animals found to be not adulterated shall be marked, stamped, tagged, or labeled as "Inspected and passed"; and said inspectors shall label, mark, stamp, or tag as "Inspected and condemned" all carcasses and parts thereof of animals found to be adulterated; and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Secretary may remove inspectors from any such establishment which fails to so destroy any such condemned carcass or part thereof, and said inspectors, after said first inspection, shall, when they deem it necessary, reinspect said carcasses or parts thereof to determine whether since the first inspection the same have become adulterated, and if any carcass or any part thereof shall, upon examination and inspection subsequent to the first examination and inspection, be found to be adulterated, it shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Secretary may remove inspectors from any establishment which fails to so destroy any such condemned carcass or part thereof.

(Mar. 4, 1907, ch. 2907, title I, § 4, formerly 2nd par., 34 Stat. 1260, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 3, 4, 12(a)-(d), 81 Stat. 584, 588, 592.)

### Codification

Section was formerly classified to section 72 of this title.

### Amendments

1967—Pub. L. 90-201, §§ 3, 4, 12(a) to (d), deleted "interstate or foreign" preceding "commerce" and "of Agriculture" following "Secretary" in three instances; deleted "for human consumption" preceding "at any slaughtering" and "for transportation or sale" following "District of Columbia" and inserted "which are capable of use as human food" following "commerce"; included horses, mules, and other equines in the list of animals; substituted "adulterated" for "unsound, unhealthful, unwholesome, or otherwise unfit for human food" following "'Inspected and condemned,' all carcasses and parts thereof of animals found to be" and preceding ", it shall be destroyed"; substituted "not adulterated" for "sound, healthful, wholesome, and fit for human food"; and substituted "adulterated" for "unsound, unhealthful, unwholesome, or in any way unfit for human food" preceding "and if any carcass", respectively.

### Effective Date of 1967 Amendment

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

## § 605. Examination of carcasses brought into slaughtering or packing establishments, and of meat food products issued from and returned thereto; conditions for entry

The foregoing provisions shall apply to all carcasses or parts of carcasses of cattle, sheep, swine, goats, horses, mules, and other equines or the meat or meat products thereof which may be brought into any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, and such examination and inspection shall be had before the said carcasses or parts thereof shall be allowed to enter into any department wherein the same are to be treated and prepared for meat food products; and the foregoing provisions shall also apply to all such products, which, after having been issued from any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, shall be returned to the same or to any similar establishment where such inspection is maintained. The Secretary may limit the entry of carcasses, parts of carcasses, meat and meat food products, and other materials into any establishment at which inspection under this subchapter is maintained, under such conditions as he may prescribe to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this chapter.

(Mar. 4, 1907, ch. 2907, title I, § 5, formerly 3rd par., 34 Stat. 1261, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 5, 12(a), 81 Stat. 584, 588, 592.)

CODIFICATION

Section was formerly classified to section 73 of this title.

AMENDMENTS

1967—Pub. L. 90-201, §§ 5, 12(a), limited entry of articles into establishments under such prescribed conditions as would be consistent with the purpose of this chapter and included horses, mules, and other equines in the list of animals, respectively.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

### § 606. Inspectors of meat food products; marks of inspection; destruction of condemned products; products for export

For the purposes hereinbefore set forth the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, and for the purposes of any examination and inspection and inspectors shall have access at all times, by day or night, whether the establishment be operated or not, to every part of said establishment; and said inspectors shall mark, stamp, tag, or label as "Inspected and passed" all such products found to be not adulterated; and said inspectors shall label, mark, stamp, or tag as "Inspected and condemned" all such products found adulterated, and all such condemned meat food products shall be destroyed for food purposes, as hereinbefore provided, and the Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products: *Provided*, That subject to the rules and regulations of the Secretary the provisions of this section in regard to preservatives shall not apply to meat food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported; but if said article shall be in fact sold or offered for sale for domestic use or consumption then this proviso shall not exempt said article from the operation of all the other provisions of this chapter.

(Mar. 4, 1907, ch. 2907, title I, § 6, formerly 4th par., 34 Stat. 1261, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 3, 12(e), 81 Stat. 584, 588, 592.)

CODIFICATION

Section was formerly classified to section 74 of this title.

AMENDMENTS

1967—Pub. L. 90-201, §§ 3, 12(e), deleted "interstate or foreign" preceding "commerce" and "of Agriculture" following "Secretary" in three instances, and substituted "not adulterated" for "sound, healthful, and wholesome, and which contains no dyes, chemicals, preservatives, or ingredients which render such meat or meat food products unsound, unhealthful, unwholesome, or unfit for human food" and "adulterated" for "unsound, unhealthful, and unwholesome, or which contain dyes, chemicals, preservatives, or ingredients which render such meat or meat food products unsound, unhealthful, unwholesome, or unfit for human food," respectively.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

### § 607. Labeling, marking, and container requirements

#### (a) Labeling receptacles or coverings of meat or meat food products inspected and passed; supervision by inspectors

When any meat or meat food product prepared for commerce which has been inspected as hereinbefore provided and marked "Inspected and passed" shall be placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection under the provisions of this chapter is maintained, the person, firm, or corporation preparing said product shall cause a label to be attached to said can, pot, tin, canvas, or other receptacle or covering, under the supervision of an inspector, which label shall state that the contents thereof have been "inspected and passed" under the provisions of this chapter; and no inspection and examination of meat or meat food products deposited or inclosed in cans, tins, pots, canvas, or other receptacle or covering in any establishment where inspection under the provisions of this chapter is maintained shall be deemed to be complete until such meat or meat food products have been sealed or inclosed in said can, tin, pot, canvas, or other receptacle or covering under the supervision of an inspector.

**(b) Information on articles or containers; legible form**

All carcasses, parts of carcasses, meat and meat food products inspected at any establishment under the authority of this subchapter and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, directly thereon or on their containers, as the Secretary may require, the information required under paragraph (n) of section 601 of this title.

**(c) Labeling: type styles and sizes; definitions and standards of identity or composition; standards of fill of container; consistency of Federal and Federal-State standards**

The Secretary, whenever he determines such action is necessary for the protection of the public, may prescribe: (1) the styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling in marketing and labeling any articles or animals subject to this subchapter or subchapter II of this chapter; (2) definitions and standards of identity or composition for articles subject to this subchapter and standards of fill of container for such articles not inconsistent with any such standards established under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], and there shall be consultation between the Secretary and the Secretary of Health and Human Services prior to the issuance of such standards under either Act relating to articles subject to this chapter to avoid inconsistency in such standards and possible impairment of the coordinated effective administration of these Acts. There shall also be consultation between the Secretary and an appropriate advisory committee provided for in section 661 of this title, prior to the issuance of such standards under this chapter, to avoid, insofar as feasible, inconsistency between Federal and State standards.

**(d) Sales under false or misleading name, other marking or labeling or in containers of misleading form or size; trade names, and other marking, labeling, and containers approved by Secretary**

No article subject to this subchapter shall be sold or offered for sale by any person, firm, or corporation, in commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the Secretary are permitted.

**(e) Use withholding directive respecting false or misleading marking, labeling, or container; modification of false or misleading matter; hearing; withholding use pending proceedings; finality of Secretary's action; judicial review; application of section 194 of title 7**

If the Secretary has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this subchapter is false or misleading in any particular, he may direct that such use be withheld unless the marking, labeling, or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person, firm, or corporation using or proposing to use the marking, labeling or container does not accept the determination of the Secretary, such person, firm, or corporation may request a hearing, but the use of the marking, labeling, or container shall, if the Secretary so directs, be withheld pending hearing and final determination by the Secretary. Any such determination by the Secretary shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person, firm, or corporation adversely affected thereby appeals to the United States court of appeals for the circuit in which such person, firm, or corporation has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 194 of title 7 shall be applicable to appeals taken under this section.

(Mar. 4, 1907, ch. 2907, title I, § 7, formerly 5th par., 34 Stat. 1262, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 3(a), 6, 81 Stat. 584, 588; Oct. 17, 1979, Pub. L. 96-88, title V, § 509(b), 93 Stat. 695.)

### REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (c)(2), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

Either Act and these Acts, referred to in subsec. (c)(2), mean the Federal Meat Inspection Act and the Federal Food, Drug, and Cosmetic Act. The Federal Meat Inspection Act is act Mar. 4, 1907, ch. 2907, titles I to IV, as added Dec. 15, 1967, Pub. L. 90-201, 81 Stat. 584, and amended, which are classified generally to subchapters I to IV (§ 601 et seq.), respectively, of this chapter. For complete classification of this Act to the Code, see Short Title note under section 601 of this title and Tables.

### CODIFICATION

Section was formerly classified to section 75 of this title.

### AMENDMENTS

1967—Subsec. (a). Pub. L. 90-201, §§ 3(a), 6(a), (b), deleted "interstate or foreign" preceding "commerce" and provisions prohibiting sales of meat or meat food products in interstate or foreign commerce under any false or deceptive names and permitting trade names or names which are usual to such products and are not false and deceptive and are approved by the Secretary of Agriculture, now incorporated in subsec. (d), and designated remaining provisions as subsecs. (a), respectively.

Subsecs. (b) to (e). Pub. L. 90-201, § 6(c), added subsecs. (b) to (e).

### CHANGE OF NAME

"Secretary of Health and Human Services" was substituted for "Secretary of Health, Education, and Welfare" in subsec. (c)(2) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

CROSS REFERENCES

Federal Food, Drug, and Cosmetic Act defined, see section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 601, 674 of this title.

### § 608. Sanitary inspection and regulation of slaughtering and packing establishments; rejection of adulterated meat or meat food products

The Secretary shall cause to be made, by experts in sanitation or by other competent inspectors, such inspection of all slaughtering, meat canning, salting, packing, rendering, or similar establishments in which cattle, sheep, swine, goats, horses, mules and other equines are slaughtered and the meat and meat food products thereof are prepared for commerce as may be necessary to inform himself concerning the sanitary conditions of the same, and to prescribe the rules and regulations of sanitation under which such establishments shall be maintained; and where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered adulterated, he shall refuse to allow said meat or meat food products to be labeled, marked, stamped or tagged as "inspected and passed."

(Mar. 4, 1907, ch. 2907, title I, § 8, formerly 6th par., 34 Stat. 1262, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 3, 12(a), (f), 81 Stat. 584, 588, 592.)

CODIFICATION

Section was formerly classified to section 76 of this title.

AMENDMENTS

1967—Pub. L. 90-201, §§ 3, 12(a), (f), deleted "interstate or foreign" preceding "commerce" and "of Agriculture" following "Secretary", included horses, mules, and other equines in the list of animals, and substituted "adulterated" for "unclean, unsound, unhealthful, unwholesome, or otherwise unfit for human food", respectively.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

### § 609. Examination of animals and food products thereof, slaughtered and prepared during nighttime

The Secretary shall cause an examination and inspection of all cattle, sheep, swine, goats, horses, mules and other equines, and the food products thereof, slaughtered and prepared in the establishments hereinbefore described for the purposes of commerce to be made during the nighttime as well as during the daytime when the slaughtering of said cattle, sheep, swine, goats, horses, mules, and other equines, or the preparation of said food products is conducted during the nighttime.

(Mar. 4, 1907, ch. 2907, title I, § 9, formerly 7th par., 34 Stat. 1262, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 3, 12(a), 81 Stat. 584, 588, 592.)

CODIFICATION

Section was formerly classified to section 77 of this title.

AMENDMENTS

1967—Pub. L. 90-201, §§ 3, 12(a), deleted "interstate or foreign" preceding "commerce" and "of Agriculture" following "Secretary" and included horses, mules, and other equines in the list of animals, respectively.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

### § 610. Prohibited acts

No person, firm, or corporation shall, with respect to any cattle, sheep, swine, goats, horses, mules, or other equines, or any carcasses, parts of carcasses, meat or meat food products of any such animals—

#### (a) Slaughtering animals or preparation of articles capable of use as human food

slaughter any such animals or prepare any such articles which are capable of use as human food at any establishment preparing any such articles for commerce, except in compliance with the requirements of this chapter;

#### (b) Humane methods of slaughter

slaughter or handle in connection with slaughter any such animals in any manner not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906);

#### (c) Sales, transportation, and other transactions

sell, transport, offer for sale or transportation, or receive for transportation, in commerce, (1) any such articles which (A) are capable of use as human food and (B) are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or (2) any articles required to be inspected under this subchapter unless they have been so inspected and passed;

#### (d) Adulteration or misbranding

do, with respect to any such articles which are capable of use as human food, any act while they are being transported in commerce or held for sale after such transportation, which is intended to cause or has the effect of causing such articles to be adulterated or misbranded.

(Mar. 4, 1907, ch. 2907, title I, § 10, formerly 8th par., 34 Stat. 1262, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 7, 81 Stat. 584, 589; Oct. 10, 1978, Pub. L. 95-445, § 3, 92 Stat. 1069.)

### REFERENCES IN TEXT

The Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906), referred to in subsec. (b), is Pub. L. 85-765, Aug. 27, 1958, 72 Stat. 862, as amended, which is classified generally to chapter 48 (§ 1901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Tables.

Sections 1903 and 1905 of Title 7, included within reference to act August 27, 1958, were repealed by Pub. L. 95-445, § 5(b), Oct. 10, 1978, 92 Stat. 1069, effective as set forth in section 7 of Pub. L. 95-445, set out as an Effective Date of 1978 Amendment note under section 603 of this title.

### CODIFICATION

Section was formerly classified to section 78 of this title.

### AMENDMENTS

1978—Subsec. (b). Pub. L. 95-445 added subsec. (b). Former subsec. (b) redesignated (c).

Subsecs. (c), (d). Pub. L. 95-445 redesignated former subsecs. (b) and (c) as (c) and (d).

1967—Pub. L. 90-201, § 7, included the list of animals and prohibited, except in compliance with requirements of this chapter, slaughtering animals or preparation of articles capable of use as human food, sales, transportation, and other transactions, and acts of adulteration or misbranding, incorporating in subsec. (b)(2) existing prohibition on distributions in interstate or foreign commerce of noninspected articles.

### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-445 effective one year after Oct. 10, 1978, and an additional eighteen month period thereafter in hardship cases, see section 7 of Pub. L. 95-445, set out as an Effective Date of 1978 Amendment note under section 603 of this title.

### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that subsecs. (b)(1) and (c) of this section effective upon expiration of sixty days after Dec. 15, 1967, see section 20(a) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

## § 611. Devices, marks, labels, and certificates; simulations

### (a) Devices to be made under authorization of Secretary

No brand manufacturer, printer, or other person, firm, or corporation shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the Secretary.

### (b) Other misconduct

No person, firm, or corporation shall—

(1) forge any official device, mark, or certificate;

(2) without authorization from the Secretary use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate;

(3) contrary to the regulations prescribed by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(4) knowingly possess, without promptly notifying the Secretary or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any animal, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark;

(5) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Secretary; or

(6) knowingly represent that any article has been inspected and passed, or exempted, under this chapter when, in fact, it has, respectively, not been so inspected and passed, or exempted.

(Mar. 4, 1907, ch. 2907, title I, § 11, formerly 9th par., 34 Stat. 1263, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 8, 81 Stat. 584, 589.)

### CODIFICATION

Section was formerly classified to section 79 of this title.

### AMENDMENTS

1967—Pub. L. 90-201, § 8, clarified application to brand manufacturers and printers of existing prohibition against counterfeiting official marks, labels or certificates, the provisions with respect to forgery, unauthorized use or failure to use official marks, or similar items, and similar offenses, and existing prohibitions with respect to false statements in official or nonofficial certificates, and added restriction upon possession of official devices, or devices, labels, meat, or other articles bearing counterfeit official marks, counterfeit official certificates, or similar items, and prohibition against false representations.

### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

## § 612. Inspection of animals for export

The Secretary shall cause to be made a careful inspection of all cattle, sheep, swine, goats, horses, mules, and other equines intended and offered for export to foreign countries at such times and places, and in such manner as he may deem proper, to ascertain whether such cattle, sheep, swine, goats, horses, mules, and other equines are free from disease.

(Mar. 4, 1907, ch. 2907, title I, § 12, formerly 10th par., 34 Stat. 1263, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 3(b), 12(a), 81 Stat. 584, 588, 592.)

CODIFICATION

Section was formerly classified to section 80 of this title.

AMENDMENTS

1967—Pub. L. 90-201, §§ 3(b), 12(a), deleted "of Agriculture" following "Secretary" and included horses, mules, and other equines in the list of animals, respectively.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 613 of this title; title 16 section 1540.

### § 613. Inspectors of animals for export; certificates of condition

For the purpose of section 612 of this title the Secretary may appoint inspectors who shall be authorized to give an official certificate clearly stating the condition in which such cattle, sheep, swine, goats, horses, mules, and other equines are found.

(Mar. 4, 1907, ch. 2907, title I, § 13, formerly 11th par., 34 Stat. 1263, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 3(b), 12(a), 81 Stat. 584, 588, 592.)

CODIFICATION

Section was formerly classified to section 81 of this title.

AMENDMENTS

1967—Pub. L. 90-201, §§ 3(b), 12(a), deleted "of Agriculture" following "Secretary", and included horses, mules, and other equines in the list of animals.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1540.

### § 614. Clearance prohibited to vessel carrying animals for export without inspector's certificate

No clearance shall be given to any vessel having on board cattle, sheep, swine, goats, horses, mules, or other equines for export to a foreign country until the owner or shipper of such cattle, sheep, swine, goats, horses, mules, or other equines has a certificate from the inspector authorized to be appointed, stating that the said cattle, sheep, swine, goats, horses, mules, or other equines are sound and healthy, or unless the Secretary shall have waived the requirement of such certificate for export to the particular country to which such cattle, sheep, swine, goats, horses, mules, or other equines are to be exported.

(Mar. 4, 1907, ch. 2907, title I, § 14, formerly 12th par., 34 Stat. 1263, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 3(b), 12(a), 81 Stat. 584, 588, 592.)

CODIFICATION

Section was formerly classified to section 82 of this title.

AMENDMENTS

1967—Pub. L. 90-201, §§ 3(b), 12(a), deleted "of Agriculture" following "Secretary" and included horses, mules, or other equines in the list of animals, respectively.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1540.

### § 615. Inspection of carcasses, meat of which is intended for export

The Secretary shall also cause to be made a careful inspection of the carcasses and parts thereof of all cattle, sheep, swine, goats, horses, mules, and other equines, the meat of which, fresh, salted, canned, corned, packed, cured, or otherwise prepared, is intended and offered for export to any foreign country, at such times and places and in such manner as he may deem proper.

(Mar. 4, 1907, ch. 2907, title I, § 15, formerly 13th par., 34 Stat. 1263, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 3(b), 12(a), 81 Stat. 584, 588, 592.)

CODIFICATION

Section was formerly classified to section 83 of this title.

AMENDMENTS

1967—Pub. L. 90-201, §§ 3(b), 12(a), deleted "of Agriculture" following "Secretary" and included horses, mules, and other equines in the list of animals, respectively.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616 of this title.

### § 616. Inspectors of carcasses, etc., meat of which is intended for export; certificates of condition

For the purpose of section 615 of this title the Secretary may appoint inspectors who shall be authorized to give an official certificate stating the condition in which said cattle, sheep, swine, goats, horses, mules, or other equines, and the meat thereof, are found.

(Mar. 4, 1907, ch. 2907, title I, § 16, formerly 14th par., 34 Stat. 1263, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 3(b), 12(a), 81 Stat. 584, 588, 592.)

### CODIFICATION

Section was formerly classified to section 84 of this title.

### AMENDMENTS

1967—Pub. L. 90-201, §§ 3(b), 12(a), deleted "of Agriculture" following "Secretary", and included horses, mules, or other equines in the list of animals.

### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

## § 617. Clearance prohibited to vessel carrying meat for export without inspector's certificate

No clearance shall be given to any vessel having on board any fresh, salted, canned, corned, or packed beef, mutton, pork, goat or equine meat for export to and sale in a foreign country from any port in the United States, until the owner or shipper thereof shall obtain from an inspector appointed under the provisions of this chapter a certificate that the said cattle, sheep, swine, goats, horses, mules, and other equines were sound and healthy at the time of inspection, and that their meat is sound and wholesome, unless the Secretary shall have waived the requirements of such certificate for the country to which said cattle, sheep, swine, goats, horses, mules, and other equines or meats are to be exported.

(Mar. 4, 1907, ch. 2907, title I, § 17, formerly 15th par., 34 Stat. 1263, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 3(b), 12(a), (g), 81 Stat. 584, 588, 592.)

### CODIFICATION

Section was formerly classified to section 85 of this title.

### AMENDMENTS

1967—Pub. L. 90-201, §§ 3(b), 12(a), (g), deleted "of Agriculture" following "Secretary", included horses, mules, and other equines in the list of animals, and substituted "goat or equine meat" for "or goat meat, being the meat of animals killed after March 4, 1907, or except as hereinbefore provided", respectively.

### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

## § 618. Delivery of inspectors' certificates, and of copies

The inspectors provided for under this subchapter shall be authorized to give official certificates of the condition of the cattle, sheep, swine, goats, horses, mules, and other equines, their carcasses and products as described in this subchapter; and one copy of every certificate granted under the provisions of this chapter shall be filed in the Department of Agriculture, another copy shall be delivered to the owner or shipper, and when the cattle, sheep, swine, goats, horses, mules, and other equines, or their carcasses and products are sent abroad, a third copy shall be delivered to the chief officer of the vessel on which the shipment shall be made.

(Mar. 4, 1907, ch. 2907, title I, § 18, formerly 16th par., 34 Stat. 1263, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 12(a), (h), 81 Stat. 854, 892.)

### CODIFICATION

"Provided for under this subchapter", and "described in this subchapter" in original read "provided for herein" and "herein described", respectively.

Section was formerly classified to section 86 of this title.

### AMENDMENTS

1967—Pub. L. 90-201, § 12(a), (h), included horses, mules, and other equines in the list of animals and deleted "sound and wholesome" preceding "conditions", respectively.

### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

## § 619. Marking, labeling, or other identification of kinds of animals of articles' derivation; separate establishments for preparation and slaughtering activities

No person, firm, or corporation shall sell, transport, offer for sale or transportation, or receive for transportation, in commerce, any carcasses of horses, mules, or other equines or parts of such carcasses, or the meat or meat food products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as required by regulations prescribed by the Secretary to show the kinds of animals from which they were derived. When required by the Secretary, with respect to establishments at which inspection is maintained under this subchapter, such animals and their carcasses, parts thereof, meat and meat food products shall be prepared in establishment separate from those in which cattle, sheep, swine, or goats are slaughtered or their carcasses, parts thereof, meat or meat food products are prepared.

(Mar. 4, 1907, ch. 2907, title I, § 19, formerly 17th par., 34 Stat. 1264, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 9, 81 Stat. 584, 590.)

### CODIFICATION

Section was formerly classified to section 87 of this title.

### AMENDMENTS

1967—Pub. L. 90-201, § 9, substituted provisions for marking, labeling, or other identification of kinds of animals whence the articles are derived and for separate establishments for preparation and slaughtering activities for prohibition against transportation or sale of meat or meat food products without complying with inspection provisions. See section 610(b) of this title.

### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration, of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

## § 620. Imports

### (a) Adulteration or misbranding prohibition; compliance with inspection, building construction standards, and other provisions; humane methods of slaughter; treatment as domestic articles subject to this chapter and food, drug, and cosmetic provisions; marking and labeling; personal consumption exemption

No carcasses, parts of carcasses, meat or meat food products of cattle, sheep, swine, goats, horses, mules, or other equines which are capable of use as human food, shall be imported into the United States if such articles are adulterated or misbranded and unless they comply with all the inspection, building, construction standards, and all other provisions of this chapter and regulations issued thereunder applicable to such articles in commerce within the United States. No such carcasses, parts of carcasses, meat or meat food products shall be imported into the United States unless the livestock from which they were produced was slaughtered and handled in connection with slaughter in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906). All such imported articles shall, upon entry into the United States, be deemed and treated as domestic articles subject to the other provisions of this chapter and the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.]: *Provided*, That they shall be marked and labeled as required by such regulations for imported articles: *Provided further*, That nothing in this section shall apply to any individual who purchases meat or meat products outside the United States for his own consumption except that the total amount of such meat or meat products shall not exceed fifty pounds.

### (b) Terms and conditions for destruction

The Secretary may prescribe the terms and conditions for the destruction of all such articles which are imported contrary to this section, unless (1) they are exported by the consignee within the time fixed therefor by the Secretary, or (2) in the case of articles which are not in compliance with the chapter solely because of misbranding, such articles are brought into compliance with the chapter under supervision of authorized representatives of the Secretary.

### (c) Payment of storage, cartage, and labor charges by owner or consignee; liens

All charges for storage, cartage, and labor with respect to any article which is imported contrary to this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such article and any other article thereafter imported under this chapter by or for such owner or consignee.

### (d) Prohibition

The knowing importation of any article contrary to this section is prohibited.

### (e) Reports to Congressional committees

Not later than March 1 of each year the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a comprehensive and detailed written report with respect to the administration of this section during the immediately preceding calendar year. Such report shall include, but shall not be limited to—

(1) a certification by the Secretary that foreign plants exporting carcasses or meat or meat products referred to in subsection (a) of this section have complied with requirements at least equal to all the inspection, building construction standards, and all other provisions of this chapter and regulations issued thereunder;

(2) the names and locations of plants authorized or permitted to have imported into the United States therefrom carcasses or meat or meat products referred to in subsection (a) of this section;

(3) the number of inspectors employed by the Department of Agriculture in the calendar year concerned who were assigned to inspect plants referred to in paragraph (e)(2) hereof and the frequency with which each such plant was inspected by such inspectors;

(4) the number of inspectors licensed by each country from which any imports subject to the provisions of this section were imported who were assigned, during the calendar year concerned, to inspect such imports and the facilities in which such imports were handled and the frequency and effectiveness of such inspections; and

(5) the total volume of carcasses or meat or meat products referred to in subsection (a) of this section which was imported into the United States during the calendar year concerned from each country, including a separate itemization of the volume of each major category of such imports from each country during such year, and a detailed report of rejections of plants and products because of failure to meet appropriate standards prescribed by this chapter.

### (f) Inspection and other standards; applicability, enforcement, etc.

Notwithstanding any other provision of law, all carcasses, parts of carcasses, meat, and meat food products of cattle, sheep, swine, goats, horses, mules, or other equines, capable of use as human food, offered for importation into the

United States shall be subject to the inspection, sanitary, quality, species verification, and residue standards applied to products produced in the United States. Any such imported meat articles that do not meet such standards shall not be permitted entry in to the United States. The Secretary shall enforce this provision through (1) the imposition of random inspections for such species verification and for residues, and (2) random sampling and testing of internal organs and fat of the carcasses for residues at the point of slaughter by the exporting country in accordance with methods approved by the Secretary. The provisions of this subsection shall become effective six months after December 22, 1981.

(Mar. 4, 1907, ch. 2907, title I, § 20, formerly 18th par., 34 Stat. 1264, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 10, 81 Stat. 584, 590; S. Res. 4, Feb. 4, 1977; Oct. 10, 1978, Pub. L. 95-445, § 4, 92 Stat. 1069; Dec. 22, 1981, Pub. L. 97-98, title XI, § 1122, 95 Stat. 1273.)

### References in Text

The Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906), referred to in subsec. (a), is Pub. L. 85-765, Aug. 27, 1958, 72 Stat. 862, as amended, which is classified generally to chapter 48 (§ 1901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Tables.

Sections 1903 and 1905 of Title 7, included within reference to act August 27, 1958, were repealed by Pub. L. 95-445, § 5(b), Oct. 10, 1978, 92 Stat. 1069, effective as set forth in section 7 of Pub. L. 95-445, set out as an Effective Date of 1978 Amendment note under section 603 of this title.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (a), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this act to the Code, see section 301 of this title and Tables.

### Codification

Section was formerly classified to section 88 of this title.

### Amendments

1981—Subsec. (f). Pub. L. 97-98 added subsec. (f).

1978—Subsec. (a). Pub. L. 95-445 prohibited imports which do not comply with humane methods of slaughter.

1967—Pub. L. 90-201, § 10, substituted imported articles provisions for penalty provisions deeming offenses as misdemeanors and punishable by fine of $10,000 or imprisonment for two years or both. See section 676(a) of this title.

### Change of Name

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

### Effective Date of 1981 Amendment

Amendment by Pub. L. 97-98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97-98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

### Effective Date of 1978 Amendment

Amendment by Pub. L. 95-445 effective one year after Oct. 10, 1978, and an additional eighteen-month period thereafter in hardship cases, see section 7 of Pub. L. 95-445, set out as an Effective Date of 1978 Amendment note under section 603 of this title.

### Effective Date of 1967 Amendment

Amendment by Pub. L. 90-201 effective upon expiration of sixty days after Dec. 15, 1967, see section 20(a) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

### Cross References

Federal Food, Drug, and Cosmetic Act defined, see section 601 of this title.

## § 621. Inspectors to make examinations provided for; appointment; duties; regulations

The Secretary shall appoint from time to time inspectors to make examination and inspection of all cattle, sheep, swine, goats, horses, mules, and other equines, inspection of which is hereby provided for and of all carcasses and parts thereof, and of all meats and meat food products thereof, and of the sanitary conditions of all establishments in which such meat and meat food products hereinbefore described are prepared; and said inspectors shall refuse to stamp, mark, tag, or label any carcass or any part thereof, or meat food product therefrom, prepared in any establishment hereinbefore mentioned, until the same shall have actually been inspected and found to be not adulterated; and shall perform such other duties as are provided by this chapter and by the rules and regulations to be prescribed by said Secretary; and said Secretary shall, from time to time, make such rules and regulations as are necessary for the efficient execution of the provisions of this chapter, and all inspections and examinations made under this chapter, shall be such and made in such manner as described in the rules and regulations prescribed by said Secretary not inconsistent with provisions of this chapter.

(Mar. 4, 1907, ch. 2907, title I, § 21, formerly 19th par., 34 Stat. 1264, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 3(b), 12(a), (i), 81 Stat. 584, 588, 592, 593.)

### Codification

Section was formerly classified to section 89 of this title.

### Amendments

1967—Pub. L. 90-201, §§ 3(b), 12(a), (i), deleted "of Agriculture" following "Secretary" in four instances, included horses, mules, and other equines in the list of animals, and substituted "not adulterated" for "sound, healthful, wholesome, and fit for human food, and to contain no dyes, chemicals, preservatives, or ingredients which render such meat food product unsound, unhealthful, unwholesome, or unfit for human food; and to have been prepared under proper sanitary conditions, hereinbefore provided for", respectively.

### Effective Date of 1967 Amendment

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiraton of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

### § 622. Bribery of or gifts to inspectors or other officers and acceptance of gifts

Any person, firm, or corporation, or any agent or employee of any person, firm, or corporation, who shall give, pay, or offer, directly or indirectly, to any inspector, deputy inspector, chief inspector, or any other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter or by the rules and regulations of the Secretary any money or other thing of value, with intent to influence said inspector, deputy inspector, chief inspector, or other officer or employee of the United States in the discharge of any duty provided for in this chapter, shall be deemed guilty of a felony, and, upon conviction thereof, shall be punished by a fine not less than $5,000 nor more than $10,000 and by imprisonment not less than one year nor more than three years; and any inspector, deputy inspector, chief inspector, or other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter who shall accept any money, gift, or other thing of value from any person, firm, or corporation, or officers, agents, or employees thereof, given with intent to influence his official action, or who shall receive or accept from any person, firm, or corporation engaged in commerce any gift, money, or other thing of value, given with any purpose or intent whatsoever, shall be deemed guilty of a felony and shall, upon conviction thereof, be summarily discharged from office and shall be punished by a fine not less than $1,000 nor more than $10,000 and by imprisonment not less than one year nor more than three years.

(Mar. 4, 1907, ch. 2907, title I, § 22, formerly 20th par., 34 Stat. 1264, renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 3, 81 Stat. 584, 588.)

#### CODIFICATION

Section was formerly classified to section 90 of this title.

#### AMENDMENTS

1967—Pub. L. 90-201, § 3, deleted "interstate or foreign" preceding "commerce" and "of Agriculture" following "Secretary", respectively.

#### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-201 effective Dec. 15, 1967, except that with respect to equines (other than horses) and their carcasses and parts thereof, meat, and meat food products thereof, amendment effective upon expiration of sixty days after Dec. 15, 1967, see section 20(b) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

### § 623. Exemptions from inspection requirements

#### (a) Personal slaughtering and custom slaughtering for personal, household, guest, and employee uses

The provisions of this subchapter requiring inspection of the slaughter of animals and the preparation of the carcasses, parts thereof, meat and meat food products at establishments conducting such operations for commerce shall not apply to the slaughtering by any person of animals of his own raising, and the preparation by him and transportation in commerce of the carcasses, parts thereof, meat and meat food products of such animals exclusively for use by him and members of his household and his nonpaying guests and employees; nor to the custom slaughter by any person, firm, or corporation of cattle, sheep, swine or goats delivered by the owner thereof for such slaughter, and the preparation by such slaughterer and transportation in commerce of the carcasses, parts thereof, meat and meat food products of such animals, exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees; nor to the custom preparation by any person, firm, or corporation of carcasses, parts thereof, meat or meat food products, derived from the slaughter by any person of cattle, sheep, swine, or goats of his own raising, or from game animals, delivered by the owner thereof for such custom preparation, and transportation in commerce of such custom prepared articles, exclusively for use in the household of such owner, by him and members of his household and his nonpaying guests and employees: *Provided*, That in cases where such person, firm, or corporation engages in such custom operations at an establishment at which inspection under this subchapter is maintained, the Secretary may exempt from such inspection at such establishment any animals slaughtered or any meat or meat food products otherwise prepared on such custom basis: *Provided further*, That custom operations at any establishment shall be exempt from inspection requirements as provided by this section only if the establishment complies with regulations which the Secretary is hereby authorized to promulgate to assure that any carcasses, parts thereof, meat or meat food products wherever handled on a custom basis, or any containers or packages containing such articles, are separated at all times from carcasses, parts thereof, meat or meat food products prepared for sale, and that all such articles prepared on a custom basis, or any containers or packages containing such articles, are plainly marked "Not for Sale" immediately after being prepared and kept so identified until delivered to the owner and that the establishment conducting the custom operation is maintained and operated in a sanitary manner.

#### (b) Territorial exemption; refusal, withdrawal, or modification

The Secretary may, under such sanitary conditions as he may by regulations prescribe, exempt from the inspection requirements of this subchapter the slaughter of animals, and the preparation of carcasses, parts thereof, meat and meat food products, by any person, firm, or corporation in any Territory not organized with a legislative body solely for distribution within such Territory when the Secretary determines that it is impracticable to provide such inspection within the limits of funds appropriated for administration of this chapter and that such exemption will otherwise facilitate enforcement of this chapter. The Secretary may refuse, withdraw, or modify any exemption under this subsection in his discretion whenever he determines such action is necessary to effectuate the purposes of this chapter.

**(c) Adulteration and misbranding provisions applicable to inspection-free articles**

The adulteration and misbranding provisions of this subchapter, other than the requirement of the inspection legend, shall apply to articles which are exempted from inspection or not required to be inspected under this section.

(Mar. 4, 1907, ch. 2907, title I, § 23, formerly 21st, 22nd pars., 34 Stat. 1265; June 29, 1938, ch. 810, 52 Stat. 1235; renumbered and amended Dec. 15, 1967, Pub. L. 90-201, §§ 1, 11, 81 Stat. 584, 591; July 18, 1970, Pub. L. 91-342, 84 Stat. 438.)

### Codification

Section was formerly classified to sections 91 and 92 of this title.

### Amendments

1970—Subsec. (a). Pub. L. 91-342 changed the proviso so as to permit custom slaughterers to conduct a separate inspected meat business, continued the exemption for owners to slaughter and process their own animals for their own use, authorized the Secretary to exempt custom slaughtering and processing performed by an inspected establishment, and required that custom slaughtered articles be clearly marked "not for sale".

1967—Pub. L. 90-201, § 11, substituted provisions for personal, custom, and territorial slaughtering exemptions and for application of adulteration and misbranding provisions to inspection-free articles for farmer definition and retail butcher and retail dealer exemption provisions.

1938—Act June 29, 1948, amended section generally.

### Effective Date of 1967 Amendment

Amendment by Pub. L. 90-201 effective upon expiration of sixty days after Dec. 15, 1967, see section 20(c) of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

### § 624. Storage and handling regulations; violations; exemption of establishments subject to non-Federal jurisdiction

The Secretary may by regulations prescribe conditions under which carcasses, parts of carcasses, meat, and meat food products of cattle, sheep, swine, goats, horses, mules, or other equines, capable of use as human food, shall be stored or otherwise handled by any person, firm, or corporation engaged in the business of buying, selling, freezing, storing, or transporting, in or for commerce, or importing, such articles, whenever the Secretary deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Violation of any such regulation is prohibited. However, such regulations shall not apply to the storage or handling of such articles at any retail store or other establishment in any State or organized Territory that would be subject to this section only because of purchases in commerce, if the storage and handling of such articles at such establishment is regulated under the laws of the State or Territory in which such establishment is located, in a manner which the Secretary, after consultation with the appropriate advisory committee provided for in section 661 of this title, determines is adequate to effectuate the purposes of this section.

(Mar. 4, 1907, ch. 2907, title I, § 24, as added Dec. 15, 1967, Pub. L. 90-201, § 13, 81 Stat. 593.)

## SUBCHAPTER II—MEAT PROCESSORS AND RELATED INDUSTRIES

### Subchapter Referred to in Other Sections

This subchapter is referred to in sections 607, 661, 672, 673 of this title.

### § 641. Prohibition of subchapter I inspection of articles not intended for use as human food; denaturation or other identification prior to distribution in commerce; inedible articles

Inspection shall not be provided under subchapter I of this chapter at any establishment for the slaughter of cattle, sheep, swine, goats, horses, mules, or other equines, or the preparation of any carcasses or parts or products of such animals, which are not intended for use as human food, but such articles shall, prior to their offer for sale or transportation in commerce, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by regulations of the Secretary to deter their use for human food. No person, firm, or corporation shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in commerce, or import, any carcasses, parts thereof, meat or meat food products of any such animals, which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Secretary or are naturally inedible by humans.

(Mar. 4, 1907, ch. 2907, title II, § 201, as added Dec. 15, 1967, Pub. L. 90-201, § 14, 81 Stat. 593.)

### Effective Date

Subchapter effective Dec. 15, 1967, see section 20 of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

### § 642. Recordkeeping requirements

**(a) Classes of persons bound; scope of disclosure; access to places of business; examination of records, facilities, and inventories; copies; samples**

The following classes of persons, firms, and corporations shall keep such records as will fully and correctly disclose all transactions involved in their businesses; and all persons, firms, and corporations subject to such requirements shall, at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory upon payment of the fair market value therefor—

(1) Any persons, firms, or corporations that engage, for commerce, in the business of

slaughtering any cattle, sheep, swine, goats, horses, mules, or other equines, or preparing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any such animals, for use as human food or animal food;

(2) Any persons, firms, or corporations that engage in the business of buying or selling (as meat brokers, wholesalers or otherwise), or transporting in commerce, or storing in or for commerce, or importing, any carcasses, or parts or products of carcasses, of any such animals;

(3) Any persons, firms, or corporations that engage in business, in or for commerce, as renderers, or engage in the business of buying, selling, or transporting, in commerce, or importing, any dead, dying, disabled, or diseased cattle, sheep, swine, goats, horses, mules, or other equines, or parts of the carcasses of any such animals that died otherwise than by slaughter.

**(b) Period of maintenance**

Any record required to be maintained by this section shall be maintained for such period of time as the Secretary may by regulations prescribe.

(Mar. 4, 1907, ch. 2907, title II, § 202, as added Dec. 15, 1967, Pub. L. 90-201, § 14, 81 Stat. 593.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 645, 678 of this title.

### § 643. Registration of business, name of person, and trade names

No person, firm, or corporation shall engage in business, in or for commerce, as a meat broker, renderer, or animal food manufacturer, or engage in business in commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any cattle, sheep, swine, goats, horses, mules, or other equines, whether intended for human food or other purposes, or engage in business as a public warehouseman storing any such articles in or for commerce, or engage in the business of buying, selling, or transporting in commerce, or importing, any dead, dying, disabled, or diseased animals of the specified kinds, or parts of the carcasses of any such animals that died otherwise than by slaughter, unless, when required by regulations of the Secretary, he has registered with the Secretary his name, and the address of each place of business at which, and all trade names under which, he conducts such business.

(Mar. 4, 1907, ch. 2907, title II, § 203, as added Dec. 15, 1967, Pub. L. 90-201, § 14, 81 Stat. 594.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 645 of this title.

### § 644. Regulation of transactions, transportation, or importation of 4-D animals to prevent use as human food

No person, firm, or corporation engaged in the business of buying, selling, or transporting in commerce, or importing, dead, dying, disabled, or diseased animals, or any parts of the carcasses of any animals that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation, in commerce, or import, any dead, dying, disabled, or diseased cattle, sheep, swine, goats, horses, mules or other equines, or parts of the carcasses of any such animals that died otherwise than by slaughter, unless such transaction, transportation or importation is made in accordance with such regulations as the Secretary may prescribe to assure that such animals, or the unwholesome parts or products thereof, will be prevented from being used for human food purposes.

(Mar. 4, 1907, ch. 2907, title II, § 204, as added Dec. 15, 1967, Pub. L. 90-201, § 14, 81 Stat. 594.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 645 of this title.

### § 645. Federal provisions applicable to State or Territorial business transactions of a local nature and not subject to local authority

The authority conferred on the Secretary by section 642, 643, or 644 of this title with respect to persons, firms, and corporations engaged in the specified kinds of business in or for commerce may be exercised with respect to persons, firms, or corporations engaged, in any State or organized Territory, in such kinds of business but not in or for commerce, whenever the Secretary determines, after consultation with an appropriate advisory committee provided for in section 661 of this title, that the State or territory does not have at least equal authority under its laws or such authority is not exercised in a manner to effectuate the purposes of this chapter including the State providing for the Secretary or his representative being afforded access to such places of business and the facilities, inventories, and records thereof, and the taking of reasonable samples, where he determines necessary in carrying out his responsibilities under this chapter; and in such case the provisions of section 642, 643, or 644 of this title, respectively, shall apply to such persons, firms, and corporations to the same extent and in the same manner as if they were engaged in such business in or for commerce and the transactions involved were in commerce.

(Mar. 4, 1907, ch. 2907, title II, § 205, as added Dec. 15, 1967, Pub. L. 90-201, § 14, 81 Stat. 594.)

## SUBCHAPTER III—FEDERAL AND STATE COOPERATION

### § 661. Federal and State cooperation

**(a) Congressional statement of policy**

It is the policy of the Congress to protect the consuming public from meat and meat food products that are adulterated or misbranded and to assist in efforts by State and other Government agencies to accomplish this objective. In furtherance of this policy—

**(1) Development and administration of State meat inspection program equal to subchapter I ante and post mortem inspection, reinspection, and sanitation requirements**

The Secretary is authorized, whenever he determines that it would effectuate the purposes of this chapter, to cooperate with the appropriate State agency in developing and administering a State meat inspection program in any State which has enacted a State meat inspection law that imposes mandatory ante mortem and post mortem inspection, reinspection and sanitation requirements that are at least equal to those under subchapter I of this chapter, with respect to all or certain classes of persons engaged in the State in slaughtering cattle, sheep, swine, goats, or equines, or preparing the carcasses, parts thereof, meat or meat food products, of any such animals for use as human food solely for distribution within such State.

**(2) Development and administration of State program with authorities equal to subchapter II authorities; cooperation with Federal agencies**

The Secretary is further authorized, whenever he determines that it would effectuate the purposes of this chapter, to cooperate with appropriate State agencies in developing and administering State programs under State laws containing authorities at least equal to those provided in subchapter II of this chapter; and to cooperate with other agencies of the United States in carrying out any provisions of this chapter.

**(3) Scope of cooperation: advisory assistance, technical and laboratory assistance and training, and financial and other aid; limitation on amount; equitable allocation of Federal funds; adequacy of State program to obtain Federal cooperation and payments**

Cooperation with State agencies under this section may include furnishing to the appropriate State agency (i) advisory assistance in planning and otherwise developing an adequate State program under the State law; and (ii) technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other aid for administration of such a program. The amount to be contributed to any State by the Secretary under this section from Federal funds for any year shall not exceed 50 per centum of the estimated total cost of the cooperative program; and the Federal funds shall be allocated among the States desiring to cooperate on an equitable basis. Such cooperation and payment shall be contingent at all times upon the administration of the State program in a manner which the Secretary, in consultation with the appropriate advisory committee appointed under paragraph (4), deems adequate to effectuate the purposes of this section.

**(4) Advisory committees**

The Secretary may appoint advisory committees consisting of such representatives of appropriate State agencies as the Secretary and the State agencies may designate to consult with him concerning State and Federal programs with respect to meat inspection and other matters within the scope of this chapter, including evaluating State programs for purposes of this chapter and obtaining better coordination and more uniformity among the State programs and between the Federal and State programs and adequate protection of consumers.

**(b) Single State agency; subordinate governmental unit as part of State agency**

The appropriate State agency with which the Secretary may cooperate under this chapter shall be a single agency in the State which is primarily responsible for the coordination of the State programs having objectives similar to those under this chapter. When the State program includes performance of certain functions by a municipality or other subordinate governmental unit, such unit shall be deemed to be a part of the State agency for purposes of this section.

**(c) State meat inspection requirements**

**(1) Notice to Governor of nondevelopment or nonenforcement; designation of State as subject to subchapters I and IV; delay and revocation of designation; publication in Federal Register; notice of production of adulterated meat or meat food products; designation of State**

If the Secretary has reason to believe, by thirty days prior to the expiration of two years after December 15, 1967, that a State has failed to develop or is not enforcing, with respect to all establishments within its jurisdiction (except those that would be exempted from Federal inspection under subparagraph (2)) at which cattle, sheep, swine, goats, or equines are slaughtered, or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State, and the products of such establishments, requirements at least equal to those imposed under subchapter I and IV of this chapter, he shall promptly notify the Governor of the State of this fact. If the Secretary determines, after consultation with the Governor of the State, or representative selected by him, that such requirements have not been developed and activated, he shall promptly after the expiration of such two-year period designate such State as one in which the provisions of subchapters I and IV of this chapter shall apply to operations and transactions wholly within such State: *Provided*, That if the Secretary has reason to believe that the State will activate such requirements within one additional year, he may delay such designation for said period, and not designate the State, if he determines at the end of the year that the State then has such requirements in effective operation. The Secretary shall publish any such designation in the Federal Register and, upon the expiration of thirty days after such publication, the provisions of subchapters I and IV shall apply to operations and transactions and to persons, firms, and corporations engaged therein in the State to the same extent and in the same manner as if such operations and transactions were conducted in or for commerce. Thereafter, upon request of the Governor, the Secretary shall revoke such designation if the Secretary determines that such State has developed and will enforce requirements at least equal to those imposed under subchapter I and subchapter IV of this chapter: *And provided further,* That, notwithstanding any other provision of this section, if the Secretary determines that any establishment within a State is producing adulterated meat or meat food products for distribution within such State which would clearly endanger the public health he shall notify the Governor of the State and the appropriate Advisory Committee provided by section 661 of this title of such fact for effective action under State or local law. If the State does not take action to prevent such endangering of the public health within a reasonable time after such notice, as determined by the Secretary, in light of the risk to public health, the Secretary may forthwith designate any such establishment as subject to the provisions of subchapters I and IV of this chapter, and thereupon the establishment and operator thereof shall be subject to such provisions as though engaged in commerce until such time as the Secretary determines that such State has developed and will enforce requirements at least equal to those imposed under subchapter I and subchapter IV of this chapter.

**(2) Exemptions of retail stores, restaurants, and similar retail-type establishments**

The provisions of this chapter requiring inspection of the slaughter of animals and the preparation of carcasses, parts thereof, meat and meat food products shall not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities or service of such articles to consumers at such establishments if such establishments are subject to such inspection provisions only under this paragraph (c).

**(3) Termination of designation of State upon development and enforcement of minimum requirements; redesignation; designation for nonenforcement of minimum requirements: notice and publication in Federal Register**

Whenever the Secretary determines that any State designated under this paragraph (c) has developed and will enforce State meat inspection requirements at least equal to those imposed under subchapters I and IV of this chapter with respect to the operations and transactions within such State which are regulated under paragraph (1), he shall terminate the designation of such State under this paragraph (c), but this shall not preclude the subsequent redesignation of the State at any time upon thirty days notice to the Governor and publication in the Federal Register in accordance with this paragraph, and any State may be designated upon such notice and publication at any time after the period specified in this paragraph whether or not the State has theretofore been designated upon the Secretary determining that it is not effectively enforcing requirements at least equal to those imposed under subchapters I and IV of this chapter.

**(4) Periodic review; report to Congressional committees**

The Secretary shall promptly upon December 15, 1967, and periodically thereafter, but at least annually, review the requirements, including the enforcement thereof, of the several States not designated under this paragraph (c), with respect to the slaughter, and the preparation, storage, handling and distribution of carcasses, parts thereof, meat and meat food products, of such animals, and inspection of such operations and annually report thereon to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate in the report required under section 691 of this title.

**(d) "State" defined**

As used in this section, the term "State" means any State (including the Commonwealth of Puerto Rico) or organized Territory.

(Mar. 4, 1907, ch. 2907, title III § 301, as added Dec. 15, 1967, Pub. L. 90-201, § 15, 81 Stat. 595, and amended S. Res. 4, Feb. 4, 1977.)

### CODIFICATION

In subsec. (c)(1) and (4), "December 15, 1967" was substituted for "enactment of the Wholesome Meat Act".

### CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

### EFFECTIVE DATE

Section effective Dec. 15, 1967, see section 20 of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

### TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of two year period following Jan. 5, 1973, and advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of two year period beginning on the date of their establishment, unless in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two year period, or in the case of a committee established by Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 607, 624, 645 of this title.

## SUBCHAPTER IV—AUXILIARY PROVISIONS

### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 661 of this title.

### § 671. Inspection services; refusal or withdrawal; hearing; business unfitness based upon certain convictions; other provisions for withdrawal of services unaffected; responsible connection with business; finality of Secretary's actions; judicial review; record

The Secretary may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this chapter) refuse to provide, or withdraw, inspection service under subchapter I of this chapter with respect to any establishment if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under subchapter I because the applicant or recipient, or anyone responsibly connected with the applicant or recipient, has been convicted, in any Federal or State court, of (1) any felony, or (2) more than one violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. This section shall not affect in any way other provisions of this chapter for withdrawal of inspection services under subchapter I from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts, meat or meat food products.

For the purpose of this section a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock or employee in a managerial or executive capacity.

The determination and order of the Secretary with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the appropriate court as provided in section 674 of this title. Judicial review of any such order shall be upon the record upon which the determination and order are based.

(Mar. 4, 1907, ch. 2907, title IV, § 401, as added Dec. 15, 1967, Pub. L. 90-201, § 16, 81 Stat. 597.)

#### Effective Date

Subchapter effective Dec. 15, 1967, see section 20 of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

### § 672. Administrative detention; duration; pending judicial proceedings; notification of governmental authorities; release

Whenever any carcass, part of a carcass, meat or meat food product of cattle, sheep, swine, goats, horses, mules, or other equines, or any product exempted from the definition of a meat food product, or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, or equine is found by any authorized representative of the Secretary upon any premises where it is held for purposes of, or during or after distribution in, commerce or otherwise subject to subchapter I or II of this chapter, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of subchapter I of this chapter or of any other Federal law or the laws of any State or Territory, or the District of Columbia, or that such article or animal has been or is intended to be, distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed twenty days, pending action under section 673 of this title or notification of any Federal, State, or other governmental authorities having jurisdiction over such article or animal, and shall not be moved by any person, firm, or corporation from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or animal before it is released unless it appears to the satisfaction of the Secretary that the article or animal is eligible to retain such marks.

(Mar. 4, 1907, ch. 2907, title IV, § 402, as added Dec. 15, 1967, Pub. L. 90-201, § 16, 81 Stat. 598.)

#### Section Referred to in Other Sections

This section is referred to in section 679 of this title.

### § 673. Seizure and condemnation

#### (a) Proceedings in rem; libel of information; jurisdiction; disposal by destruction or sale; proceeds into the Treasury; sales restrictions; bond; court costs and fees, storage, and other expenses against claimants; proceedings in admiralty; jury trial; United States as plaintiff

Any carcass, part of a carcass, meat or meat food product of cattle, sheep, swine, goats, horses, mules or other equines, or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, or equine, that is being transported in commerce or otherwise subject to subchapter I or II of this chapter, or is held for sale in the United States after such transportation, and that (1) is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter, or (2) is capable of use as human food and is adulterated or misbranded, or (3) in any other way is in violation of this chapter, shall be liable to be proceeded against and seized and condemned, at any time, on a libel of information in any United States district court or other proper court as provided in section 674 of this title within the jurisdiction of which the article or animal is found. If the article or animal is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the article or animal shall not be sold contrary to the provisions of this chapter, or the laws of the jurisdiction in which it is sold: *Provided*, That upon the execution and delivery of a good and sufficient bond conditioned that the article or animal shall not be sold or otherwise disposed of contrary to the provisions of this chapter, or the laws of the jurisdiction in which disposal is made, the court may direct that such article or animal be delivered to the owner thereof subject to such supervision by authorized representatives of the Secretary as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the article or animal and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article or animal. The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

### (b) Condemnation or seizure under other provisions unaffected

The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this chapter, or other laws.

(Mar. 4, 1907, ch. 2907, title IV, § 403, as added Dec. 15, 1967, Pub. L. 90-201, § 16, 81 Stat. 598.)

### FEDERAL RULES OF CIVIL PROCEDURE

Admiralty and maritime rules of practice (which included libel procedures) were superseded, and civil and admiralty procedures in United States district courts were unified, effective July 1, 1966, see rule 1 and Supplemental Rules for Certain Admiralty and Maritime Claims, Title 28, Appendix, Judiciary and Judicial Procedure.

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 672 of this title.

## § 674. Federal court jurisdiction of enforcement and injunction proceedings and other kinds of cases; limitations of section 607(e) of this title

The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other Territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this chapter, and shall have jurisdiction in all other kinds of cases arising under this chapter, except as provided in section 607(e) of this title.

(Mar. 4, 1907, ch. 2907, title IV, § 404, as added Dec. 15, 1967, Pub. L. 90-201, § 16, 81 Stat. 599.)

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 671, 673, 677 of this title.

## § 675. Assaulting, resisting, or impeding certain persons; murder; protection of such persons

Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this chapter shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such acts, uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this chapter shall be punished as provided under sections 1111 and 1114 of title 18.

(Mar. 4, 1907, ch. 2907, title IV, § 405, as added Dec. 15, 1967, Pub. L. 90-201, § 16, 81 Stat. 599.)

## § 676. Violations

### (a) Misdemeanors; felonies: intent to defraud and distribution of adulterated articles; good faith

Any person, firm, or corporation who violates any provision of this chapter for which no other criminal penalty is provided by this chapter shall upon conviction be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated (except as defined in section 601(m)(8) of this title), such person, firm, or corporation shall be subject to imprisonment for not more than three years or a fine of not more than $10,000, or both: *Provided*, That no person, firm, or corporation, shall be subject to penalties under this section for receiving for transportation any article or animal in violation of this chapter if such receipt was made in good faith, unless such person, firm, or corporation refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such article or animal, and copies of all documents, if any there be, pertaining to the delivery of the article or animal to him.

### (b) Minor violations; written warning or criminal and civil proceedings

Nothing in this chapter shall be construed as requiring the Secretary to report for prosecution or for the institution of libel or injunction proceedings, minor violations of this chapter whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

(Mar. 4, 1907, ch. 2907, title IV, § 406, as added Dec. 15, 1967, Pub. L. 90-201, § 16, 81 Stat. 599.)

### FEDERAL RULES OF CIVIL PROCEDURE

Admiralty and maritime rules of practice (which included libel procedures) were superseded, and civil and admiralty procedures in United States district courts were unified, effective July 1, 1966, see rule 1 and Supplemental Rules for Certain Admiralty and Maritime Claims, Title 28, Appendix, Judiciary and Judicial Procedure.

## § 677. Other Federal laws applicable for administration and enforcement of chapter; location of inquiries; jurisdiction of Federal courts

For the efficient administration and enforcement of this chapter, the provisions (including penalties) of sections 46, 48, 49 and 50 of title 15 (except paragraphs (c) through (h) of section 46 and the last paragraph of section 49), and the provisions of section 409(*l*) of title 47, are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this chapter and to any person, firm, or corporation with respect to whom such authority is exercised. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this chapter in any part of the United States, and the powers conferred by said sections 49 and 50 of title 15 on the district courts of the United States may be exercised for the purposes of this chapter by any court designated in section 674 of this title.

(Mar. 4, 1907, ch. 2907, title IV, § 407, as added Dec. 15, 1967, Pub. L. 90-201, § 16, 81 Stat. 599.)

#### References in Text

The last paragraph of section 49 of title 15, and the provisions of section 409(*l*) of title 47, referred to in the text, which related to immunity of witnesses, were repealed by sections 211 and 242, respectively, of Pub. L. 91-452, Oct. 15, 1970, title II, 84 Stat. 929, 930. For current provisions relating to immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

### § 678. Non-Federal jurisdiction of federally regulated matters; prohibition of additional or different requirements for establishments with inspection services and as to marking, labeling, packaging, and ingredients; recordkeeping and related requirements; concurrent jurisdiction over distribution for human food purposes of adulterated or misbranded and imported articles; other matters

Requirements within the scope of this chapter with respect to premises, facilities and operations of any establishment at which inspection is provided under subchapter I of this chapter, which are in addition to, or different than those made under this chapter may not be imposed by any State or Territory or the District of Columbia, except that any such jurisdiction may impose recordkeeping and other requirements within the scope of section 642 of this title, if consistent therewith, with respect to any such establishment. Marking, labeling, packaging, or ingredient requirements in addition to, or different than, those made under this chapter may not be imposed by any State or Territory or the District of Columbia with respect to articles prepared at any establishment under inspection in accordance with the requirements under subchapter I of this chapter, but any State or Territory or the District of Columbia may, consistent with the requirements under this chapter, exercise concurrent jurisdiction with the Secretary over articles required to be inspected under said subchapter I, for the purpose of preventing the distribution for human food purposes of any such articles which are adulterated or misbranded and are outside of such an establishment, or, in the case of imported articles which are not at such an establishment, after their entry into the United States. This chapter shall not preclude any State or Territory or the District of Columbia from making requirement[1] or taking other action, consistent with this chapter, with respect to any other matters regulated under this chapter.

(Mar. 4, 1907, ch. 2907, title IV, § 408, as added Dec. 15, 1967, Pub. L. 90-201, § 16, 81 Stat. 600.)

### § 679. Application of Federal Food, Drug, and Cosmetic Act

#### (a) Authorities under food, drug, and cosmetic provisions unaffected

Notwithstanding any other provisions of law, including section 902(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 392(a)), the provisions of this chapter shall not derogate from any authority conferred by the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] prior to December 15, 1967.

#### (b) Enforcement proceedings; detainer authority of representatives of Secretary of Health and Human Services

The detainer authority conferred by section 672 of this title shall apply to any authorized representative of the Secretary of Health and Human Services for purposes of the enforcement of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] with respect to any carcass, part thereof, meat, or meat food product of cattle, sheep, swine, goats, or equines that is outside any premises at which inspection is being maintained under this chapter, and for such purposes the first reference to the Secretary in section 672 of this title shall be deemed to refer to the Secretary of Health and Human Services.

(Mar. 4, 1907, ch. 2907, title IV, § 409, as added Dec. 15, 1967, Pub. L. 90-201, § 16, 81 Stat. 600, and amended Oct. 17, 1979, Pub. L. 96-88, title V, § 509(b), 93 Stat. 695.)

#### References in Text

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (b), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

#### Change of Name

"Secretary of Health and Human Services" was substituted for "Secretary of Health, Education, and Welfare" in subsec. (b) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

#### Cross References

Federal Food, Drug, and Cosmetic Act defined, see section 601 of this title.

### § 680. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Mar. 4, 1907, ch. 2907, title IV, § 410, as added Dec. 15, 1967, Pub. L. 90-201, § 16, 81 Stat. 600.)

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[1] So in original. Probably should be "requirements".

## SUBCHAPTER V—MISCELLANEOUS PROVISIONS

### § 691. Reports to Congressional committees

The Secretary shall annually report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate with respect to the slaughter of animals subject to this Act, and the preparation, storage, handling and distribution of carcasses, parts thereof, meat and meat food products, of such animals, and inspection of establishments operated in connection therewith, including the operations under and effectiveness of this Act.

(Pub. L. 90-201, § 17, Dec. 15, 1967, 81 Stat. 600; S. Res. 4, Feb. 4, 1977.)

#### REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 90-201, Dec. 15, 1967, 81 Stat. 584, as amended, known as the Wholesome Meat Act, which enacted sections 601, 602, 624, 641 to 645, 661, 671 to 680, and 691 of this title, amended sections 603 to 623 of this title, repealed section 96 of this title and section 1306(b) of Title 19, Customs Duties, and enacted provisions set out as notes under section 601 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

#### CODIFICATION

Section was enacted as a part of the Wholesome Meat Act (see References in Text note above) and not as a part of the Federal Meat Inspection Act which is classified to subchapters I to IV of this chapter.

#### CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

#### EFFECTIVE DATE

Section effective Dec. 15, 1967, see section 20 of Pub. L. 90-201, set out as an Effective Date note under section 601 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

### § 692. Inspection extended to reindeer

The provisions of the meat inspection law may be extended to the inspection of reindeer.

(June 30, 1914, ch. 131, 38 Stat. 420.)

#### REFERENCES IN TEXT

The "meat inspection law", referred to in text, is classified generally to this chapter. At the time of enactment, such reference probably meant the Act of Mar. 4, 1907, ch. 2907, 34 Stat. 1260, as amended. That Act (formerly classified to section 71 et seq. of this title), was generally revised by Pub. L. 90-201, Dec. 15, 1967, 81 Stat. 584, and is classified to this chapter. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

Section was not enacted as part of the Federal Meat Inspection Act which is classified to subchapters I to IV of this chapter.

Section was formerly classified to section 94 of this title.

### § 693. Inspection of dairy products for export

The act of March 3, 1891, as amended, for the inspection of live cattle and products thereof, shall be deemed to include dairy products intended for exportation to any foreign country, and the Secretary of Agriculture may apply, under rules and regulations to be prescribed by him, the provisions of said act for inspection and certification appropriate for ascertaining the purity and quality of such products, and may cause the same to be so marked, stamped, or labeled as to secure their identity and make known in the markets of foreign countries to which they may be sent from the United States their purity, quality, and grade; and all the provisions of said act relating to live cattle and products thereof for export shall apply to dairy products so inspected and certified.

(May 23, 1908, ch. 192, 35 Stat. 254.)

#### REFERENCES IN TEXT

The act of March 3, 1891, referred to in text, is act Mar. 3, 1891, ch. 555, 26 Stat. 1089, which was superseded by act Mar. 4, 1907, ch. 2907, 34 Stat. 1260, as amended by act June 29, 1938, ch. 810, 52 Stat. 1235 (formerly classified to section 71 et seq. of this title). Act Mar. 4, 1907, ch. 2907, was generally revised by Pub. L. 90-201, Dec. 15, 1967, 81 Stat. 584, and is classified to this chapter.

#### CODIFICATION

Section was not enacted as part of the Federal Meat Inspection Act which is classified to subchapters I to IV of this chapter.

Section was formerly classified to sections 94a and 132 of this title.

### § 694. Authorization of appropriations

Annual appropriations of the sum of $3,000,000 from the general fund of the Treasury are authorized for the expenses of the inspection of cattle, sheep, swine, and goats and the meat and meat food products thereof which enter into interstate or foreign commerce and for all expenses necessary to carry into effect the provisions of this Act relating to meat inspection, including rent and the employment of labor in Washington and elsewhere, for each year, and in addition there is authorized to be appropriated such other sums as may be necessary in the enforcement of the meat inspection laws.

(June 30, 1906, ch. 3913, 34 Stat. 679; June 26, 1934, ch. 756, § 2, 48 Stat. 1225.)

#### REFERENCES IN TEXT

This Act, referred to in text, is act June 30, 1906, ch. 3913, 34 Stat. 669, which made appropriations for the Department of Agriculture for the fiscal year ending June 30, 1907.

#### CODIFICATION

Section 2 of act June 26, 1934, which was classified to section 725a of former Title 31, Money and Finance, repealed the permanent appropriation under the title "Meat inspection, Bureau of Animal Industry (fiscal year) (3-114)" effective July 1, 1935, provided that such portions of any Acts as make permanent appropriations to be expended under such account are amended so as to authorize, in lieu thereof, annual appropriations from the general fund of the Treasury in identical terms and in such amounts as now provided by the laws providing such permanent appropriations, and authorized, in addition thereto, the appropriation of "such other sums as may be necessary in the enforcement of the meat inspection laws." In the original, the parenthetical "(U.S.C., title 21, secs. 71 to 96, inclusive)" followed the phrase "meat inspection laws". The "meat inspection laws" are classified generally to this chapter.

Section was not enacted as part of the Federal Meat Inspection Act which is classified to subchapters I to IV of this chapter.

Section was formerly classified to section 95 of this title.

### § 695. Payment of cost of meat-inspection service; exception

The cost of inspection rendered on and after July 1, 1948, under the requirements of laws relating to Federal inspection of meat and meat food products shall be borne by the United States except the cost of overtime pursuant to section 394 of title 7.

(June 5, 1948, ch. 423, 62 Stat. 344.)

#### Codification

Section was not enacted as part of the Federal Meat Inspection Act which is classified to subchapters I to IV of this chapter.

Section was formerly classified to section 98 of this title.

Public Law 98-487
98th Congress

## An Act

Oct. 17, 1984
[H.R. 5223]

**To amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to exempt restaurant central kitchens under certain conditions from Federal inspection requirements.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 301(c)(2) of the Federal Meat Inspection Act (21 U.S.C. 661(c)(2)) is amended by adding the following sentence at the end thereof: "For the purposes of this subparagraph, operations conducted at a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares meat or meat food products that are ready to eat when they leave such facility and are served in meals or as entrees only to customers at restaurants owned or operated by the same person, firm, or corporation owning or operating such facility: *Provided,* That such facility shall be subject to the provisions of section 202 of this Act: *Provided further,* That the facility may be subject to the inspection requirements under title I of this Act for as long as the Secretary deems necessary, if the Secretary determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its meat or meat food products are rendered adulterated.". 21 USC 642.

SEC. 2. Section 5(c)(2) of the Poultry Products Inspection Act (21 U.S.C. 454(c)(2)) is amended by adding the following sentence at the end thereof: "For the purposes of this subparagraph, operations conducted at a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares poultry products that are ready to eat when they leave such facility and are served in meals or as entrees only to customers at restaurants owned or operated by the same person owning or operating such facility: *Provided,* That such facility shall be subject to the provisions of section 11(b) of this Act: *Provided further,* That the facility may be subject to the inspection requirements of this Act for as long as the Secretary deems necessary, if the Secretary determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its poultry products are rendered adulterated.". 21 USC 461.

Approved October 17, 1984.

## TITLE IV—FEDERAL MEAT INSPECTION

### SEC. 401. SHORT TITLE.

Processed Products Inspection Improvement Act of 1986.
21 USC 601 note.

This title may be cited as the "Processed Products Inspection Improvement Act of 1986".

### SEC. 402. PURPOSE.

The amendments made by this title are in furtherance of the findings made by Congress in section 2 of the Federal Meat Inspection Act (21 U.S.C. 602).

### SEC. 403. AMENDMENTS TO FEDERAL MEAT INSPECTION ACT.

(a) Manner and Frequency of Inspection.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 6 of the Federal Meat Inspection Act (21 U.S.C. 606) is amended by striking out "That for the purposes" and all that follows through "*Provided*, That" and inserting in lieu thereof the following:

Commerce and trade.

"(a)(1) For the purposes set forth in the preceding provisions of this Act, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment.

"(2) Such examination and inspection shall be conducted with such frequency and in such manner as the Secretary considers necessary, as provided in rules and regulations issued by the Secretary, taking into account such factors as the Secretary considers to be appropriate, including—

"(A) the nature and frequency of the processing operations at such establishment;

"(B) the adequacy and reliability of the processing controls and sanitary procedures at such establishment; and

"(C) the history of compliance with inspection requirements in effect under this Act, by the operator of such establishment or anyone responsibly connected with the business (as described in section 401(g)) that operates such establishment.

*Post*, p. 3568.
Labeling.

"(b)(1) All such products found by any of such inspectors and by the operator of such establishment to be not adulterated shall be marked, stamped, tagged, or labeled as 'Inspected and passed'.

"(2) All such products found by any of such inspectors or by the operator of such establishment to be adulterated shall be marked, stamped, tagged, or labeled as 'Inspected and condemned'. Each such condemned product shall be destroyed for human food purposes. The Secretary may suspend inspection at, and remove inspectors from, any establishment that fails to so condemn adulterated meat food products or fails to so destroy condemned meat food products.

"(c) For purposes of any examination and inspection, such inspectors shall have access to every part of an establishment at all times, by day or night, and without regard to whether such establishment is operated.

"(d) Notwithstanding the preceding provisions of this section,".

(b) ENFORCEMENT METHODS.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 401 of the Federal Meat Inspection Act (21 U.S.C. 671) is amended—

(1) by inserting "(a)" after the section designation;

(2) in the first sentence—

(A) by striking out "applicant, for" and inserting in lieu thereof "applicant for";

(B) by striking out "any felony, or (2)"; and

(C) by inserting before the period at the end thereof "or (2) any felony";

(3) in the second sentence—

(A) by indenting the first word so as to create a new paragraph; and

(B) by inserting "(f)" before the first word;

(4) by inserting "(g)" before the first word of the third sentence;

(5) in the fourth sentence—

(A) by striking out "The" and inserting in lieu thereof "(h) Except as provided in subsection (e)(2), the"; and

(B) by striking out "this section" and inserting in lieu thereof "subsection (e)"; and

(6) by inserting after subsection (a), as so designated by paragraph (1) of this subsection, the following new subsections:

Law enforcement and crime.
Courts, U.S.
Health and medical care.
Safety.
21 USC 601.

"(b)(1) On the request of the Secretary at the time of the sentencing of an individual who is a person responsibly connected with any business requiring inspection under title I and who is convicted of a felony involving—

"(A) the intentional adulteration of food (except as defined in section 1(m)(8));

"(B) the adulteration of food, as defined in section 1(m)(8), with intent to defraud;

"(C) bribery; or

"(D) extortion;

21 USC 601.

the sentencing court shall issue a temporary order forbidding such individual to exercise operational control of, or to be physically present at, any establishment requiring inspection under title I if the court finds that the exercise of operational control by, or the presence of, such individual at any such establishment either poses a direct and substantial threat to the public health or safety or, if such individual is convicted of a felony described in subparagraph (B), poses a clear likelihood of significant economic harm to consumers.

Records.

"(2) Such order shall terminate—

"(A) whenever the Secretary determines by order, after a hearing on the record, whether such individual should exercise operational control of, or be physically present at, any establishment requiring inspection under title I, and judicial review, if any, of such determination is completed; or 21 USC 601.

"(B) 90 days after the issuance of such temporary order by the court if the Secretary does not commence such hearing before the expiration of such 90 days;

whichever occurs earlier.

"(c) Any determination and order of the Secretary issued under subsection (a) or (b) shall be conclusive and enforceable unless the affected applicant for, or recipient of, inspection service or the affected individual files, not later than 30 days after the effective date of such order, a petition for review of such order in the United States Court of Appeals for the District of Columbia Circuit or the court of appeals for the circuit in which the relevant establishment is doing business. Judicial review of such order shall be on the record on which the determination and order are based.

District of Columbia.
Courts, U.S.

Records.

"(d)(1) Subject to paragraph (3), the Secretary may commence a civil action in an appropriate court, as provided in section 404, to withdraw inspection service under title I with respect to any establishment or to prevent any individual responsibly connected with any business requiring inspection under title I from exercising operational control of, or being present at, any establishment requiring inspection under title I.

Law enforcement and crime.
Courts, U.S.
21 USC 674.
21 USC 601.

"(2) If the court finds, on the basis of clear and convincing evidence, that the recipient of inspection service or such individual has repeatedly failed to comply with the requirements of this Act, or the rules and regulations issued under this Act, in a manner that poses a direct and substantial threat to the public health or safety, the court shall issue an order—

Health and medical care.
Safety.

"(A) withdrawing inspection at such establishment; or

"(B) forbidding such individual to exercise operational control of, or to be physically present at, such establishment,

for such period as the court determines is necessary to carry out the purposes of this Act.

"(3) Not less than 90 days, and not more than 450 days, before commencing a civil action under paragraph (1), the Secretary shall provide to each recipient of inspection service, and each individual responsibly connected with the business, with respect to which such action is commenced, a written notice that includes—

"(A) a statement that the Secretary intends to commence such action;

"(B) a comprehensive description of the violations of this Act and the regulations issued under this Act alleged by the Secretary; and

"(C) a description of the actions the Secretary considers necessary to be taken by such recipient or such individual to comply with this Act and to eliminate the need to commence such civil action.

"(e)(1) The Secretary may temporarily withdraw inspection service under title I with respect to any establishment for such period as is necessary to ensure the safe and effective performance of official duties under this Act if the Secretary determines, after an opportunity for a hearing on the record, that an officer, employee, or agent of such establishment—

Records.
21 USC 601.

"(A) threatened to forcibly assault;

"(B) forcibly assaulted;

"(C) forcibly intimidated; or

"(D) forcibly interfered with,

an employee of the United States engaged in, or on account of, the performance of any of such official duties.

Safety. Records. 21 USC 601.

"(2)(A) Notwithstanding paragraph (1), the Secretary may temporarily suspend inspection service under title I with respect to any establishment, pending an expedited administrative hearing on the record and judicial review of the order of the Secretary based on such record, if the Secretary determines that temporary suspension of such inspection service is necessary for the safety of any employee who performs official duties under this Act.

"(B) If the Secretary receives, before or after temporarily suspending such inspection service in accordance with subparagraph (A), adequate written assurances from the recipient of inspection service, or the individuals involved, that the conduct or circumstances that threatened the safety of such employee will not continue or recur, the Secretary may continue or restore such inspection service on condition that such assurances are fulfilled.".

(c) Warning; Reporting of Violations.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 406 of the Federal Meat Inspection Act (21 U.S.C. 676) is amended—

(1) in subsection (b), by adding at the end thereof the following new sentence: "In determining whether the public interest could be adequately served by a written notice of warning, the Secretary shall take into account, among other factors—

"(1) the compliance history of such establishment;

"(2) the magnitude of the violation;

"(3) whether compliance with this Act would likely be obtained as a result of such notice; and

"(4) whether such violation is of a minor or technical nature."; and

(2) by adding at the end thereof the following new subsection:

"(c) Unless the Secretary by regulation provides otherwise, before any violation of this Act is reported by the Secretary for prosecution in a criminal proceeding, the Secretary shall give the person alleged to have committed such violation—

"(1) reasonable notice that the Secretary intends to report such violation for prosecution; and

"(2) an opportunity to present to the Secretary, orally or in writing, views with respect to such proceeding.".

(d) Conforming Amendments.—

(1) Nighttime.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 9 of the Federal Meat Inspection Act (21 U.S.C. 609) is amended by inserting ", except as provided in section 6," after "equines, and" the first place it appears.

(2) Administration.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 21 of the Federal Meat Inspection Act (21 U.S.C. 621) is amended by striking out "and meat food products" and inserting in lieu thereof "thereof, and of meat food products".

21 USC 606 note.

(e) Construction of Amendments.—The amendments made by this section shall not be construed to authorize the Secretary of Agriculture to refuse to provide inspection under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) at an establishment solely because such establishment does not participate in a total plant quality-control program.

## SEC. 404. SAVINGS PROVISION.

21 USC 606 note.

The expiration date provisions of section 403 shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), as amended by section 403, or under the rules or regulations issued under such Act.

## SEC. 405. SENSE OF CONGRESS.

21 USC 606 note.

It is the sense of Congress that the Secretary of Agriculture should—

(1) carry out a program to detect residues in livestock that are subject to inspection under title I of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.); and

(2) evaluate the feasibility of, and develop, a program that would enable the Secretary to trace any particular livestock that are subject to inspection under title I of the Federal Meat Inspection Act, in order to identify the producer of such livestock.

## SEC. 406. ANNUAL REPORT.

21 USC 606 note.

Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing—

(1) any action proposed or taken by the Secretary to implement the amendments made by section 403;

(2) any action proposed or taken by the Secretary to carry out a program to detect residues in livestock that are subject to inspection under title I of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(3) any action proposed or taken by the Secretary to evaluate the feasibility of, and develop, a program that would enable the Secretary to trace any particular livestock that are subject to inspection under such title, in order to identify the producer of such livestock; and

(4) any personnel action proposed or taken by the Secretary as a result of the amendments made by section 403 and any effort made by the Secretary to minimize any adverse economic effect of such amendments on employees of the Department of Agriculture.

## SEC. 407. CONGRESSIONAL REEVALUATION.

21 USC 606 note.

It is the sense of Congress that, not later than 6 years after the date of the enactment of this Act, Congress shall—

(1) evaluate the operation and effects of the amendments made by section 403, for the purpose of determining whether to extend or modify the operation of such amendments; and

(2) enact such legislation as may be necessary to efficiently and effectively carry out the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

## SEC. 408. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

21 USC 606 note.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b) of this section, this title and the amendments made by this title shall become effective on the date of the enactment of this Act.

(b) TEMPORARY APPLICATION OF EXISTING LAW.—Sections 6, 9, and 21 of the Federal Meat Inspection Act (21 U.S.C. 606, 609, and 621), as in effect immediately before the date of the enactment of this Act, shall apply with respect to establishments until the Secretary of Agriculture first issues rules and regulations to implement the amendments made by section 403(a).

Approved November 10, 1986.

### INSPECTION AND OTHER STANDARDS FOR IMPORTED MEAT AND MEAT FOOD PRODUCTS

Prohibition.

SEC. 1702. (a) Section 20(f) of the Federal Meat Inspection Act (21 U.S.C. 620(f)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Each foreign country from which such meat articles are offered for importation into the United States shall obtain a certification issued by the Secretary stating that the country maintains a program using reliable analytical methods to ensure compliance with the United States standards for residues in such meat articles. No such meat article shall be permitted entry into the United States from a country for which the Secretary has not issued such certification. The Secretary shall periodically review such certifications and shall revoke any certification if the Secretary determines that the country involved is not maintaining a program that uses reliable analytical methods to ensure compliance with United States standards for residues in such meat articles. The consideration of any application for a certification under this subsection and the review of any such certification, by the Secretary, shall include the inspection of individual establishments to ensure that the inspection program of the foreign country involved is meeting such United States standards.".

(b) Section 20 of the Federal Meat Inspection Act (21 U.S.C. 620) is amended by adding at the end thereof the following:

Animals.
Prohibition.

"(g) The Secretary may prescribe terms and conditions under which cattle, sheep, swine, goats, horses, mules, and other equines that have been administered an animal drug or antibiotic banned for use in the United States may be imported for slaughter and human consumption. No person shall enter cattle, sheep, swine, goats, horses, mules, and other equines into the United States in violation of any order issued under this subsection by the Secretary.".

### EXAMINATION AND REPORT OF LABELING AND SANITATION STANDARDS FOR IMPORTATION OF AGRICULTURAL COMMODITIES

Study.

SEC. 1703. (a)(1) The Comptroller General of the United States shall conduct a study of Department of Health and Human Services and Department of Agriculture product purity and inspection requirements and regulations currently in effect for imported food products and agricultural commodities. The study shall evaluate the effectiveness of Federal regulations and inspection procedures to detect prohibited chemical residues and foreign matter in or on food or raw agricultural commodities in processed or unprocessed form.

Regulations.
Animals.

(2) The study shall include a review of Federal regulations and inspection procedures currently in effect to detect in imported live animals chemicals and chemical residues the use of which is prohibited in the production of domestic live animals.

Reports.

(3) The study shall include recommendations regarding the feasibility of requiring that quality control reports relating to product purity and inspection procedures be submitted from processing plants certified by the Secretary of Agriculture as eligible to export meat and meat food products to the United States.

(4) The study shall include recommendations on the adequacy of the Department of Health and Human Services and the Department of Agriculture to prescribe and enforce food sanitation requirements

and chemical and chemical residue standards for imported agricultural commodities and food products.

(b) The study also shall evaluate the feasibility of requiring all imported meat and meat food products, agricultural commodities, and products of such commodities to bear a label stating the country of origin of such commodities and products. The study shall include an evaluation of the feasibility of requiring any person owning or operating an eating establishment that serves any meat or meat food product required to be marked or labeled under paragraph (1) or (2) of section 7(c) of the Federal Meat Inspection Act (21 U.S.C. 607(c)) to inform individuals purchasing food from such establishment that meat or meat food products served at the establishment may be imported articles—

(1) by displaying a sign indicating that imported meat is served in such establishment; or

(2) by providing the information specified in paragraph (1) of such section 7(c) on the menus offered to such individuals.

(c) The Secretary shall submit the results of the study conducted under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than one year after the date of enactment of this Act.

## CHAPTER 10—POULTRY AND POULTRY PRODUCTS INSPECTION

Sec.
451. Congressional statement of findings.
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453. Definitions.
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- 458. Prohibited acts.
- 459. Compliance by all establishments.
- 460. Miscellaneous activities subject to regulation.
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- 461. Offenses and punishment.
  - (a) Violations; liability of agents, employees, and employers.
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- 464. Exemptions.
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Sec.
  - (e) Suspension or termination of exemption.
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- 467. Inspection services.
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  - (b) Hearing to determine validity of withdrawal or refusal of inspection services; continuation of withdrawal or refusal.
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- 467a. Administrative detention; duration; pending judicial proceedings; notification of government authorities; release; removal of official marks.
- 467b. Seizure and condemnation.
  - (a) Proceedings in rem; libel of information; jurisdiction; disposal by destruction or sale; proceeds into the Treasury; sales restrictions; bonds; court costs and fees, storage, and other expenses against claimants; jury trial; United States as plaintiff.
  - (b) Condemnation or seizure under other provisions unaffected.
- 467c. Federal court jurisdiction of enforcement and injunction proceedings and other kinds of cases; limitations; United States as plaintiff; subpenas.
- 467d. Administration and enforcement; applicability of penalty provisions; conduct of inquiries; power and jurisdiction of courts.
- 467e. Non-Federal jurisdiction of federally regulated matters; prohibition of additional or different requirements for establishments with inspection services and as to marking, labeling, packaging, and ingredients; recordkeeping and related requirements; concurrent jurisdiction over distribution for human food purposes of adulterated or misbranded and imported articles; other matters.
- 467f. Federal Food, Drug, and Cosmetic Act applications.
  - (a) Exemptions; authorities under food, drug, and cosmetic provisions unaffected.
  - (b) Enforcement proceedings; detainer authority of representatives of Secretary of Health and Human Services.
- 468. Cost of inspection; overtime.
- 469. Authorization of appropriations.
- 470. Reports to Congress.

### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 321 of this title.

### § 451. Congressional statement of findings

Poultry and poultry products are an important source of the Nation's total supply of food. They are consumed throughout the Nation and the major portion thereof moves in interstate or foreign commerce. It is essential in the public interest that the health and welfare of consumers be protected by assuring that poultry products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded poultry products impair the effective regulation of poultry products in interstate or foreign commerce, are injurious to the public welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged poultry products, and result in sundry losses to poultry producers and processors of poultry and poultry products, as well as injury to consumers. It is hereby found that all articles and poultry which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce, and that regulation by the Secretary of Agriculture and cooperation by the States and other jurisdictions as contemplated by this chapter are appropriate to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of consumers.

(Pub. L. 85-172, § 2, Aug. 28, 1957, 71 Stat. 441; Pub. L. 90-492, § 2, Aug. 18, 1968, 82 Stat. 791.)

### Amendments

1968—Pub. L. 90-492 added provisions stating it to be necessary that the health and welfare of consumers be protected by assuring that poultry products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged, provisions that misbranded poultry products impair the effective regulation of poultry products and destroy markets for wholesome, not adulterated, and properly labeled and packaged poultry products, and result in sundry losses to poultry producers and processors of poultry and poultry products, as well as injury to consumers, and provisions that all articles and poultry which are regulated by this chapter are either in interstate or foreign commerce or substantially affect such commerce and that regulation by the Secretary of Agriculture and cooperation by the states and other jurisdictions as contemplated by this chapter are appropriate to serve the specified aims, and struck out provisions that all poultry and poultry products which have or are required to have inspection under this chapter are either in the current of interstate or foreign commerce or directly affect such commerce, provisions that that part entering directly into the current of interstate or foreign commerce cannot be effectively inspected and regulated without also inspecting and regulating all poultry and poultry products in the same establishment, and provisions authorizing the Secretary to designate major consuming areas.

### Effective Date of 1968 Amendment

Section 20 of Pub. L. 90-492 provided that: "This Act [see Short Title of 1968 Amendment note below] shall become effective upon enactment [Aug. 18, 1968] except as provided in paragraphs (a) through (c):

"(a) The provisions of subparagraphs (a)(2)(A) and (a)(3) of section 9 of the Poultry Products Inspection Act, as amended by section 9 of this Act [section 458(a)(2)(A) and (a)(3) of this title], shall become effective upon the expiration of sixty days after enactment hereof [Aug. 18, 1968].

"(b) Section 14 of this Act, amending section 15 of the Poultry Products Inspection Act [section 464 of this title], shall become effective upon the expiration of sixty days after enactment hereof [Aug. 18, 1968].

"(c) Paragraph 11(d) of the Poultry Products Inspection Act, as added by section 11 of this Act [section 460(d) of this title], shall become effective upon the expiration of sixty days after enactment hereof [Aug. 18, 1968]."

### Effective Date

Section 29, formerly section 22 of Pub. L. 85-172, as renumbered by Pub. L. 90-492, § 17, Aug. 18, 1968, 82 Stat. 805, provided that: "This Act [this chapter] shall take effect upon enactment [Aug. 28, 1957], except that no person shall be subject to the provisions of this Act [this chapter] prior to January 1, 1959, unless such person after January 1, 1958, applies for and receives inspection for poultry or poultry products in accordance with the provisions of this Act [this chapter] and pursuant to regulations promulgated by the Secretary hereunder, in any establishment processing poultry or poultry products in commerce or in a designated major consuming area. Any person who voluntarily applies for and receives such inspection after January 1, 1958, shall be subject, on and after the date he commences to receive such inspection, to all of the provisions and penalties provided for in this Act [this chapter] with respect to all poultry or poultry products handled in the establishment for which such said application for inspection is made."

### Short Title of 1968 Amendment

Section 1 of Pub. L. 90-492 provided: "That this Act [enacting sections 467a to 467f and 470 of this title, amending sections 451 to 461, 463 to 465, and 467 of this title, and enacting provisions set out as notes under this section] may be cited as the 'Wholesome Poultry Products Act'."

### Short Title

Section 1 of Pub. L. 85-172 provided: "That this Act [enacting this chapter and provisions set out as notes under this section] may be cited as the 'Poultry Products Inspection Act'."

### Separability of Provisions of Pub. L. 90-492

Section 19 of Pub. L. 90-492 provided that: "If any provisions of this Act or of the amendments made hereby [see Short Title of 1968 Amendment note above] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the remaining amendments and of the application of such provision to other persons and circumstances shall not be affected thereby."

### Separability of Provisions

Section 28, formerly section 21 of Pub. L. 85-172 as renumbered by Pub. L. 90-492, § 17, Aug. 18, 1968, 82 Stat. 805, provided that: "If any provision of this Act [this chapter] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act [this chapter] and of the application of such provision to other persons and circumstances shall not be affected thereby."

### Food Additives Amendment of 1958

Pub. L. 85-929, § 7, Sept. 6, 1958, 72 Stat. 1789, provided that: "Nothing in this Act [amending sections 321, 331, 342, 346, 348 of this title and section 210 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 321, 342, and 451 of this title] shall be construed to exempt any meat or meat food product or any person from any requirement imposed by or pursuant to the Poultry Products Inspection Act (21 U.S.C. 451 and the following) [this chapter] or the Meat Inspection Act of March 4, 1907, 34 Stat. 1260, as amended and extended (21 U.S.C. 71 and the following) [see section 601 et seq. of this title]."

### Section Referred to in Other Sections

This section is referred to in sections 321, 454 of this title.

### ACT REFERRED TO IN OTHER SECTIONS

The Wholesome Poultry Products Act is referred to in section 1053 of this title.

## § 452. Congressional declaration of policy

It is hereby declared to be the policy of the Congress to provide for the inspection of poultry and poultry products and otherwise regulate the processing and distribution of such articles as hereinafter prescribed to prevent the movement or sale in interstate or foreign commerce of, or the burdening of such commerce by, poultry products which are adulterated or misbranded. It is the intent of Congress that when poultry and poultry products are condemned because of disease, the reason for condemnation in such instances shall be supported by scientific fact, information, or criteria, and such condemnation under this chapter shall be achieved through uniform inspection standards and uniform applications thereof.

(Pub. L. 85-172, § 3, Aug. 28, 1957, 71 Stat. 441; Pub. L. 90-492, § 3, Aug. 18, 1968, 82 Stat. 792.)

### AMENDMENTS

1968—Pub. L. 90-492 added provisions declaring the policy of Congress to be to otherwise regulate the processing and distribution of poultry and poultry products as hereinafter prescribed so as to prevent the movement or sale in interstate commerce of, or the burdening of such commerce by poultry products which are adulterated or misbranded, and provisions that declared the policy of Congress to be that condemnation of diseased poultry and poultry products shall be achieved through uniform inspection standards and supported by scientific fact or criteria, and struck out provisions that declared the policy of Congress to be to provide for inspection by the inspection service to prevent the movement in interstate commerce or foreign commerce or in a designated major consuming area of poultry products which are unwholesome, adulterated, or otherwise unfit for human food.

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 454 of this title.

## § 453. Definitions

For purposes of this chapter—

(a) The term "commerce" means commerce between any State, any territory, or the District of Columbia, and any place outside thereof; or within any territory not organized with a legislative body, or the District of Columbia.

(b) Except as otherwise provided in this chapter, the term "State" means any State of the United States and the Commonwealth of Puerto Rico.

(c) The term "territory" means Guam, the Virgin Islands of the United States, American Samoa, and any other territory or possession of the United States, excluding the Canal Zone.

(d) The term "United States" means the States, the District of Columbia, and the territories of the United States.

(e) The term "poultry" means any domesticated bird, whether live or dead.

(f) The term "poultry product" means any poultry carcass, or part thereof; or any product which is made wholly or in part from any poultry carcass or part thereof, excepting products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry, and which are exempted by the Secretary from definition as a poultry product under such conditions as the Secretary may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products.

(g) The term "adulterated" shall apply to any poultry product under one or more of the following circumstances:

(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2)(A) if it bears or contains (by reason of administration of any substance to the live poultry or otherwise) any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food;

(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 346a of this title;

(C) if it bears or contains any food additive which is unsafe within the meaning of section 348 of this title;

(D) if it bears or contains any color additive which is unsafe within the meaning of section 376 of this title: *Provided*, That an article which is not otherwise deemed adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Secretary in official establishments;

(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(5) if it is, in whole or in part, the product of any poultry which has died otherwise than by slaughter;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 348 of this title;

(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(h) The term "misbranded" shall apply to any poultry product under one or more of the following circumstances:

(1) if its labeling is false or misleading in any particular;

(2) if it is offered for sale under the name of another food;

(3) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter, the name of the food imitated;

(4) if its container is so made, formed, or filled as to be misleading;

(5) unless it bears a label showing (A) the name and the place of business of the manufacturer, packer, or distributor; and (B) an accurate statement of the quantity of the product in terms of weight, measure, or numerical count: *Provided*, That under clause (B) of this subparagraph (5), reasonable variations may be permitted, and exemptions as to small packages or articles not in packages or other containers may be established by regulations prescribed by the Secretary;

(6) if any word, statement, or other information required by or under authority of this chapter to appear on the label or other labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(7) if it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the Secretary under section 457 of this title unless (A) it conforms to such definition and standard, and (B) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;

(8) if it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the Secretary under section 457 of this title, and it falls below the standard to fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

(9) if it is not subject to the provisions of subparagraph (7), unless its label bears (A) the common or usual name of the food, if any there be, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the Secretary, be designated as spices, flavorings, and colorings without naming each: *Provided*, That to the extent that compliance with the requirements of clause (B) of this subparagraph (9) is impracticable or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Secretary;

(10) if it purports to be or is represented for special dietary uses unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary, after consultation with the Secretary of Health and Human Services, determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses;

(11) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative unless it bears labeling stating that fact: *Provided*, That, to the extent that compliance with the requirements of this subparagraph (11) is impracticable, exemptions shall be established by regulations promulgated by the Secretary; or

(12) if it fails to bear on its containers, and in the case of nonconsumer packaged carcasses (if the Secretary so requires) directly thereon, as the Secretary may by regulations prescribe, the official inspection legend and official establishment number of the establishment where the article was processed, and, unrestricted by any of the foregoing, such other information as the Secretary may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

(i) The term "Secretary" means the Secretary of Agriculture or his delegate.

(j) The term "person" means any individual, partnership, corporation, association, or other business unit.

(k) The term "inspector" means: (1) an employee or official of the United States Government authorized by the Secretary to inspect poultry and poultry products under the authority of this chapter, or (2) any employee or official of the government of any State or territory or the District of Columbia authorized by the Secretary to inspect poultry and poultry products under authority of this chapter, under an agreement entered into between the Secretary and the appropriate State or other agency.

(*l*) The term "official mark" means the official inspection legend or any other symbol prescribed by regulation of the Secretary to identify the status of any article or poultry under this chapter.

(m) The term "official inspection legend" means any symbol prescribed by regulations of the Secretary showing that an article was inspected for wholesomeness in accordance with this chapter.

(n) The term "official certificate" means any certificate prescribed by regulations of the Secretary for issuance by an inspector or other person performing official functions under this chapter.

(o) The term "official device" means any device prescribed or authorized by the Secretary for use in applying any official mark.

(p) The term "official establishment" means any establishment as determined by the Secretary at which inspection of the slaughter of poultry, or the processing of poultry products, is maintained under the authority of this chapter.

(q) The term "inspection service" means the official Government service within the Department of Agriculture designated by the Secretary as having the responsibility for carrying out the provisions of this chapter.

(r) The term "container" or "package" includes any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

(s) The term "label" means a display of written, printed, or graphic matter upon any article or the immediate container (not including package liners) of any article; and the term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

(t) The term "shipping container" means any container used or intended for use in packaging the product packed in an immediate container.

(u) The term "immediate container" includes any consumer package; or any other container in which poultry products, not consumer packaged, are packed.

(v) The term "capable of use as human food" shall apply to any carcass, or part or product of a carcass, of any poultry, unless it is denatured or otherwise identified as required by regulations prescribed by the Secretary to deter its use as human foods, or it is naturally inedible by humans.

(w) The term "processed" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

(x) The term "Federal Food, Drug, and Cosmetic Act" means the Act so entitled, approved June 25, 1938 (52 Stat. 1040) [21 U.S.C. 301 et seq.], and Acts amendatory thereof or supplementary thereto.

(y) The terms "pesticide chemical," "food additive", "color additive", and "raw agricultural commodity" shall have the same meanings for purposes of this chapter as under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.].

(z) The term "poultry products broker" means any person engaged in the business of buying or selling poultry products on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person.

(aa) The term "renderer" means any person engaged in the business of rendering carcasses, or parts or products of the carcasses, of poultry, except rendering conducted under inspection or exemption under this chapter.

(bb) The term "animal food manufacturer" means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of poultry.

(Pub. L. 85-172, § 4, Aug. 28, 1957, 71 Stat. 441; Pub. L. 87-498, June 25, 1962, 76 Stat. 110; Pub. L. 90-492, § 4, Aug. 18, 1968, 82 Stat. 792; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

### REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in pars. (x) and (y), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

### AMENDMENTS

1968—Pub. L. 90-492 added the definitions of "State", "territory", "United States", "misbranded", "official mark", "official inspection legend", "official certificate", "official device", "capable of use as human food", "processed", "Federal Food, Drug, and Cosmetic Act", "pesticide chemical", "poultry products broker", "renderer", and "animal food manufacturer", revised the definitions of "commerce", "poultry", "poultry product", "adulterated", "Secretary", "inspector", "container" or "package", "label", and "immediate container", reenacted without change the definitions of "person", "official establishment", "inspection service", and "shipping container", and deleted the definition of "wholesome", "unwholesome", and "official inspection mark".

1962—Par. (a). Pub. L. 87-498 deleted references to Territories or possessions, and added the definition of "State".

### CHANGE OF NAME

"Secretary of Health and Human Services" was substituted for "Secretary of Health, Education, and Welfare" in par. (h)(10) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 454, 457, 461, 464 of this title; title 15 sections 2052, 2602.

## § 454. Federal and State cooperation in development and administration of State poultry product inspection programs

### (a) State laws; planning, technical and financial assistance; advisory committees

It is the policy of the Congress to protect the consuming public from poultry products that are adulterated or misbranded and to assist in efforts by State and other government agencies to accomplish this objective. In furtherance of this policy—

(1) The Secretary is authorized, whenever he determines that it would effectuate the purposes of this chapter, to cooperate with the appropriate State agency in developing and administering a State poultry product inspection program in any State which has en-

acted a mandatory State poultry product inspection law that imposes ante mortem and post mortem inspection, reinspection and sanitation requirements that are at least equal to those under this chapter, with respect to all or certain classes of persons engaged in the State in slaughtering poultry or processing poultry products for use as human food solely for distribution within such State.

(2) The Secretary is further authorized, whenever he determines that it would effectuate the purposes of this chapter, to cooperate with appropriate State agencies in developing and administering State programs under State laws containing authorities at least equal to those provided in section 460 of this title; and to cooperate with other agencies of the United States in carrying out any provisions of this chapter. In carrying out the provisions of this chapter, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any State or Territory or the District of Columbia commissioned by the Secretary for such purpose.

(3) Cooperation with State agencies under this section may include furnishing to the appropriate State agency (i) advisory assistance in planning and otherwise developing an adequate State program under the State law; and (ii) technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other aid for administration of such a program. The amount to be contributed to any State by the Secretary under this section from Federal funds for any year shall not exceed 50 per centum of the estimated total cost of the cooperative program; and the Federal funds shall be allocated among the States desiring to cooperate on an equitable basis. Such cooperation and payment shall be contingent at all times upon the administration of the State program in a manner which the Secretary, in consultation with the appropriate advisory committee appointed under subparagraph (4), deems adequate to effectuate the purposes of this section.

(4) The Secretary may appoint advisory committees consisting of such representatives of appropriate State agencies as the Secretary and the State agencies may designate to consult with him concerning State and Federal programs with respect to poultry product inspection and other matters within the scope of this chapter, including evaluating State programs for purposes of this chapter, and obtaining better coordination and more uniformity among the State programs and between the Federal and State programs and adequate protection of consumers.

**(b) Appropriate State agency; performance of functions by subordinate governmental unit**

The appropriate State agency with which the Secretary may cooperate under this chapter shall be a single agency in the State which is primarily responsible for the coordination of the State programs having objectives similar to those under this chapter. When the State program includes performance of certain functions by a municipality or other subordinate governmental unit, such unit shall be deemed to be a part of the State agency for purposes of this section.

**(c) Intrastate activities; designation of State for regulation; publication of designation; exempted operations; termination of designation; review of operations in nondesignated States; annual report**

(1) If the Secretary has reason to believe, by thirty days prior to the expiration of two years after August 18, 1968, that a State has failed to develop or is not enforcing, with respect to all establishments within its jurisdiction (except those that would be exempted from Federal inspection under subparagraph (2) of this paragraph (c)) at which poultry are slaughtered, or poultry products are processed for use as human food, solely for distribution within such State, and the products of such establishments, requirements at least equal to those imposed under sections 451 to 453, 455 to 459, 461 to 467d of this title, he shall promptly notify the Governor of the State of this fact. If the Secretary determines, after consultation with the Governor of the State, or representative selected by him, that such requirements have not been developed and activated, he shall promptly after the expiration of such two-year period designate such State as one in which the provisions of said sections of this chapter shall apply to operations and transactions wholly within such State: *Provided*, That if the Secretary has reason to believe that the State will activate such requirements within one additional year, he may delay such designation for said period, and not designate the State, if he determines at the end of the year that the State then has such requirements in effective operation. The Secretary shall publish any such designation in the Federal Register and, upon the expiration of thirty days after such publication, the provisions of said sections of this chapter shall apply to operations and transactions and to persons engaged therein in the State to the same extent and in the same manner as if such operations and transactions were conducted in or for commerce. However, notwithstanding any other provision of this section, if the Secretary determines that any establishment within a State is producing adulterated poultry products for distribution within such State which would clearly endanger the public health he shall notify the Governor of the State and the appropriate advisory committee provided for by subparagraph (a)(4) of this section of such fact for effective action under State or local law. If the State does not take action to prevent such endangering of the public health within a reasonable time after such notice, as determined by the Secretary, in light of the risk to public health, the Secretary may forthwith designate any such establishment as subject to the provisions of said sections of this chapter, and thereupon the establishment and operator thereof shall be subject to such provisions as though engaged in commerce until such time as the Secretary determines that such State has developed and will enforce requirements at least equal to those imposed under said sections.

(2) The provisions of this chapter requiring inspection of the slaughter of poultry and the processing of poultry products shall not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities or service of such articles to consumers at such establishments if such establishment are subject to such inspection provisions only under this paragraph (c).

(3) Wherever the Secretary determines that any State designated under this paragraph (c) has developed and will enforce State poultry products inspection requirements at least equal to those imposed under the aforesaid sections of this chapter, with respect to the operations and transactions within such State which are regulated under subparagraph (1) of this paragraph (c), he shall terminate the designation of such State under this paragraph (c), but this shall not preclude the subsequent redesignation of the State at any time upon thirty days' notice to the Governor and publication in the Federal Register in accordance with this paragraph, and any State may be designated upon such notice and publication, at any time after the period specified in this paragraph whether or not the State has theretofore been designated, upon the Secretary determining that it is not effectively enforcing requirements at least equal to those imposed under said sections.

(4) The Secretary shall promptly upon August 18, 1968, and periodically thereafter, but at least annually, review the requirements, including the enforcement thereof, of the several States not designated under this paragraph (c), with respect to the slaughter, and the processing, storage, handling, and distribution of poultry products, and inspection of such operations, and annually report thereon to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate in the report required in section 470 of this title.

### (d) Definition

As used in this section, the term "State" means any State (including the Commonwealth of Puerto Rico) or organized territory.

(Pub. L. 85-172, § 5, Aug. 28, 1957, 71 Stat. 443; Pub. L. 90-492, § 5, Aug. 18, 1968, 82 Stat. 796; S. Res. 4, Feb. 4, 1977.)

### CODIFICATION

In pars. (c)(1) and (4), "August 18, 1968" was substituted for "enactment of the Wholesome Poultry Products Act".

### AMENDMENTS

1968—Pub. L. 90-492 substituted provisions authorizing the Secretary to cooperate with the appropriate state agency in the development and administration of state poultry product inspection programs in those states having mandatory poultry product inspection laws and those states having laws at least equal to the provisions of section 460 of this title, provisions authorizing planning, technical and financial assistance and the appointment of advisory committees, provisions designating the appropriate state agency with which the Secretary may cooperate, provisions authorizing the Secretary to designate states as subject to the regulatory provisions of this chapter when the requirements of the specified section have not been complied with or when the specified intrastate activities are present, provisions exempting from the requirements of this chapter operations of the types traditionally and usually conducted at retail stores and restaurants, provisions authorizing the Secretary to terminate the aforementioned designation of states as subject to the regulatory provisions of this chapter, and provisions authorizing the Secretary to review the operations in nondesignated states and make an annual report thereon, for provisions authorizing the Secretary, upon application by any appropriate state or local official or agency or by any appropriate local poultry industry group and after public hearing, to designate major consuming areas as subject to the regulatory provisions of this chapter where the Secretary finds that poultry or poultry products are handled or consumed in such volume as to affect, burden or obstruct the movement of inspected poultry products in interstate commerce.

### CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 457, 460 of this title.

## § 455. Inspection in official establishments

### (a) Ante mortem inspection

For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any poultry product which is capable of use as human food and is adulterated, the Secretary shall, where and to the extent considered by him necessary, cause to be made by inspectors ante mortem inspection of poultry in each official establishment processing poultry or poultry products for commerce or otherwise subject to inspection under this chapter.

### (b) Post mortem inspection; quarantine, segregation, and reinspection

The Secretary, whenever processing operations are being conducted, shall cause to be made by inspectors post mortem inspection of the carcass of each bird processed, and at any time such quarantine, segregation, and reinspection as he deems necessary of poultry and poultry products capable of use as human food in each official establishment processing such poultry or poultry products for commerce or otherwise subject to inspection under this chapter.

### (c) Condemnation; appeal; reprocessing

All poultry carcasses and parts thereof and other poultry products found to be adulterated shall be condemned and shall, if no appeal be taken from such determination of condemnation, be destroyed for human food purposes under the supervision of an inspector: *Provided*, That carcasses, parts, and products, which may by reprocessing be made not adulterated, need not be so condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the carcasses, parts, or products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the Secretary determines that the appeal is frivolous. If the determination of condemnation is sustained the carcasses, parts, and products shall be destroyed for human food purposes under the supervision of an inspector.

(Pub. L. 85-172, § 6, Aug. 28, 1957, 71 Stat. 443; Pub. L. 90-492, § 6, Aug. 18, 1968, 82 Stat. 798.)

#### Amendments

1968—Par. (a). Pub. L. 90-492, § 6(a), substituted "of, or the burdening of commerce by, any poultry product which is capable of use as human food and is adulterated," for "or a designated major consuming area of any poultry product which is unwholesome or adulterated," "each official establishment" for "any official establishment", and "otherwise subject to inspection under this chapter" for "in, or for marketing in a designated city or area".

Par. (b). Pub. L. 90-492, § 6(b), substituted "segregation, and reinspection" for "segregation, reinspection", and "otherwise subject to inspection under this chapter" for "in, or for marketing in a designated city or area", and added "capable of use as human food" following "necessary of poultry and poultry products".

Par. (c). Pub. L. 90-492, § 6(c), added "other" preceding "poultry products", and substituted "to be adulterated" for "to be unwholesome or adulterated", "made not adulterated" for "made not unwholesome and not adulterated", and "to be not adulterated" for "to be not unwholesome and not adulterated".

#### Effective Date of 1968 Amendment

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

#### Section Referred to in Other Sections

This section is referred to in sections 454, 467 of this title.

## § 456. Operation of premises, facilities and equipment

### (a) Sanitary practices

Each official establishment slaughtering poultry or processing poultry products for commerce or otherwise subject to inspection under this chapter shall have such premises, facilities, and equipment, and be operated in accordance with such sanitary practices, as are required by regulations promulgated by the Secretary for the purpose of preventing the entry into or flow or movement in commerce or burdensome effect upon commerce, of poultry products which are adulterated.

### (b) Refusal of inspection

The Secretary shall refuse to render inspection to any establishment whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section.

(Pub. L. 85-172, § 7, Aug. 28, 1957, 71 Stat. 444; Pub. L. 90-492, § 7, Aug. 18, 1968, 82 Stat. 799.)

#### Amendments

1968—Par. (a). Pub. L. 90-492 substituted "otherwise subject to inspection under this chapter" for "in or for marketing in a designated major consuming area", "burdensome effect upon commerce" for "in a designated major consuming area", and "which are adulterated" for "which are unwholesome or adulterated".

#### Effective Date of 1968 Amendment

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

#### Section Referred to in Other Sections

This section is referred to in sections 454, 467 of this title.

## § 457. Labeling and container standards

### (a) Requirements for shipping containers and immediate containers; nonconsumer packaged carcasses

All poultry products inspected at any official establishment under the authority of this chapter and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, on their shipping containers and immediate containers as the Secretary may require, the information required under paragraph (h) of section 453 of this title. In addition, the Secretary whenever he determines such action is practicable and necessary for the protection of the public, may require nonconsumer packaged carcasses at the time they leave the establishment to bear directly thereon in distinctly legible form any information required under such paragraph (h).

### (b) Labeling requirements; definitions and standards of identity or composition or articles and standards of fill of container; standards consistent with Federal Food, Drug, and Cosmetic Act; consistency between Federal and State standards

The Secretary, whenever he determines such action is necessary for the protection of the public, may prescribe: (1) the styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling in marketing and labeling any articles or poultry subject to this chapter; (2) definitions and standards of identity or composition or articles subject to this chapter and standards of fill of container for such articles not inconsistent with any such standards established under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], and there shall be consultation between the Secretary and the Secretary of Health and Human Services prior to the issuance of such standards under either Act relating to articles subject to this chapter to avoid inconsistency in such standards and possible impairment of the coordinated effective administration of this chapter and the Federal Food, Drug, and Cosmetic Act. There shall also be consultation between the Secretary and an appropriate advisory committee provided for in section 454 of this title, prior to the issuance of such standards under this chapter, to avoid, insofar as feasible, inconsistency between Federal and State standards.

### (c) Use of trade names; false or misleading marking or labeling; misleading form or size of container

No article subject to this chapter shall be sold or offered for sale by any person in commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the Secretary are permitted.

### (d) Withholding use of false or misleading mark, label, or container size or form; modification; hearing; conclusiveness of determination; appeal

If the Secretary has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this chapter is false or misleading in any particular, he may direct that such use be withheld unless the marking, labeling, or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to use the marketing, labeling, or container does not accept the determination of the Secretary, such person may request a hearing, but the use of the marking, labeling, or container shall, if the Secretary sc directs, be withheld pending hearing and final determination by the Secretary. Any such determination by the Secretary shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected thereby appeals to the United States Court of Appeals for the circuit in which such person has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 194 of title 7 shall be applicable to appeals taken under this section.

(Pub. L. 85-172, § 8, Aug. 28, 1957, 71 Stat. 444; Pub. L. 90-492, § 8, Aug. 18, 1968, 82 Stat. 799; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

#### References in Text

The Federal Food, Drug, and Cosmetic Act, referred to in par. (b), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

#### Amendments

1968—Par. (a). Pub. L. 90-492 substituted provisions requiring shipping containers and immediate containers, as the Secretary may order, to bear the information required under section 453(h) of this title, and provisions, whenever the Secretary determines such action to be practicable and necessary, requiring nonconsumer packaged carcasses at the time they leave the official establishment to bear the information required under the aforementioned section, for provisions requiring shipping containers to bear the official mark and the approved plant number of the official establishment in which the contents were processed, provisions requiring immediate containers to bear the official inspection mark, the name of the product, a statement of ingredients, the net weight or other appropriate measure of the contents, the name and address of the processor, and the approved plant number of the official establishment in which the contents were processed, and provisions authorizing the Secretary to make reasonable variations and grant exemptions from the foregoing labeling requirements.

Par. (b). Pub. L. 90-492 added par. (b). Provisions of former par. (b), were redesignated as pars. (c) and (d).

Par. (c). Pub. L. 90-492 redesignated part of the provisions of former par. (b) as (c), and made changes in phraseology.

Par. (d). Pub. L. 90-492 redesignated part of the provisions of former par. (b) as (d), and, as so redesignated, extended the authority of the Secretary to withhold from use products which have false or misleading markings or containers.

#### Change of Name

"Secretary of Health and Human Services" was substituted for "Secretary of Health, Education, and Welfare" in par. (b) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

#### Effective Date of 1968 Amendment

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

#### Section Referred to in Other Sections

This section is referred to in sections 453, 454, 467, 467c of this title.

## § 458. Prohibited acts

(a) No person shall—

(1) slaughter any poultry or process any poultry products which are capable of use as human food at any establishment processing any such articles for commerce, except in compliance with the requirements of this chapter;

(2) sell, transport, offer for sale or transportation, or receive for transportation, in commerce, (A) any poultry products which are capable of use as human food and are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or (B) any poultry products required to be inspected under this chapter unless they have been so inspected and passed;

(3) do, with respect to any poultry products which are capable of use as human food, any act while they are being transported in commerce or held for sale after such transportation, which is intended to cause or has the effect of causing such products to be adulterated or misbranded;

(4) sell, transport, offer for sale or transportation, or receive for transportation, in commerce or from an official establishment, any slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with regulations promulgated by the Secretary, except as may be authorized by regulations of the Secretary;

(5) use to his own advantage, or reveal other than to the authorized representatives of the United States Government or any State or other government in their official capacity, or as ordered by a court in any judicial

proceedings, any information acquired under the authority of this chapter concerning any matter which is entitled to protection as a trade secret.

(b) No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the Secretary.

(c) No person shall—

(1) forge any official device, mark, or certificate;

(2) without authorization from the Secretary use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate;

(3) contrary to the regulations prescribed by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(4) knowingly possess, without promptly notifying the Secretary or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any poultry, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark;

(5) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Secretary; or

(6) knowingly represent that any article has been inspected and passed, or exempted, under this chapter when, in fact, it has respectively, not been so inspected and passed, or exempted.

(Pub. L. 85-172, § 9, Aug. 28, 1957, 71 Stat. 445; Pub. L. 90-492, § 9, Aug. 18, 1968, 82 Stat. 800.)

AMENDMENTS

1968—Pub. L. 90-492 made revisions in form and phraseology, added to the enumerated prohibited acts slaughtering poultry or processing any poultry products capable of use as human food, except in compliance with the requirements of this chapter, selling and transporting adulterated or misbranded poultry products or uninspected poultry products, adulterating or misbranding poultry products while they are being transported in commerce or held for sale after such transportation, treating carcasses not in accordance with regulations promulgated by the Secretary, possessing, without notifying the Secretary, any official device or any counterfeit, simulated, etc., official certificate, or any device or label bearing any counterfeit, simulated, etc., official mark, and making false representations and statements, and clarified application to brand manufacturers and printers of existing provisions prohibiting the counterfeiting of official marks, labels, or certificates.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of pars. (a)(1), (a)(2)(B), (a)(4), (a)(5), (b) and (c) by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

Amendment of pars. (a)(2)(A), and (a)(3) by Pub. L. 90-492 effective upon the expiration of sixty days after Aug. 18, 1968, see section 20(a) of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 454, 461 of this title.

### § 459. Compliance by all establishments

No establishment processing poultry or poultry products for commerce otherwise subject to this chapter shall process any poultry or poultry product except in compliance with the requirements of this chapter.

(Pub. L. 85-172, § 10, Aug. 28, 1957, 71 Stat. 446; Pub. L. 90-492, § 10, Aug. 18, 1968, 82 Stat. 801.)

AMENDMENTS

1968—Pub. L. 90-492 substituted "otherwise subject to this chapter" for "in or for marketing in a designated major consuming area".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 454, 461 of this title.

### § 460. Miscellaneous activities subject to regulation

**(a) Prohibition of inspection of articles not intended for use as human food; denaturation or other identification prior to distribution in commerce; inedible articles**

Inspection shall not be provided under this chapter at any establishment for the slaughter of poultry or the processing of any carcasses or parts or products of poultry, which are not intended for use as human food, but such articles shall, prior to their offer for sale or transportation in commerce, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by regulations of the Secretary to deter their use for human food. No person shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in commerce, or import, any poultry carcasses or parts or products thereof which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Secretary or are naturally inedible by humans.

**(b) Recordkeeping requirements; persons liable; scope of disclosure; access to places of business; examination of records, facilities, and inventories; copies; samples**

The following classes of persons shall, for such period of time as the Secretary may by regulations prescribe, not to exceed two years unless otherwise directed by the Secretary for good cause shown, keep such records as are properly necessary for the effective enforcement of this chapter in order to insure against adulterated or misbranded poultry products for the American consumer; and all persons subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of the Secretary, afford such representative access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory upon payment of the fair market value therefor—

(1) Any person that engages in the business of slaughtering any poultry or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any poultry, for commerce, for use as human food or animal food;

(2) Any person that engages in the business of buying or selling (as poultry products brokers, wholesalers or otherwise), or transporting, in commerce, or storing in or for commerce, or importing, any carcasses, or parts or products of carcasses, of any poultry;

(3) Any person that engages in business, in or for commerce, as a renderer, or engages in the business of buying, selling, or transporting, in commerce, or importing, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter.

### (c) Registration of business, name of person, and trade names

No person shall engage in business, in or for commerce, as a poultry products broker, renderer, or animal food manufacturer, or engage in business in commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any poultry, whether intended for human food or other purposes, or engage in business as a public warehouseman storing any such articles in or for commerce, or engage in the business of buying, selling, or transporting in commerce, or importing, any dead, dying, disabled, or diseased poultry, or parts of the carcasses of any poultry that died otherwise than by slaughter, unless when required by regulations of the Secretary, he has registered with the Secretary his name, and the address of each place of business at which, and all trade names under which, he conducts such business.

### (d) Regulation of transactions, transportation, or importation of dead, dying, disabled or diseased poultry or carcasses to prevent use as human food

No person engaged in the business of buying, selling, or transporting in commerce, or importing, dead, dying, disabled, or diseased poultry, or any parts of the carcasses of any poultry that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation, in commerce, or import, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter, unless such transaction, transportation or importation is made in accordance with such regulations as the Secretary may prescribe to assure that such poultry, or the unwholesome parts or products thereof, will be prevented from being used for human food.

### (e) Federal provisions applicable to State or Territorial business transactions of a local nature and not subject to local authority

The authority conferred on the Secretary by paragraph (b), (c), or (d) of this section with respect to persons engaged in the specified kinds of business in or for commerce may be exercised with respect to persons engaged, in any State or organized territory, in such kinds of business but not in or for commerce, whenever the Secretary determines, after consultation with an appropriate advisory committee provided for in section 454 of this title, that the State or territory does not have at least equal authority under its laws or such authority is not exercised in a manner to effectuate the purposes of this chapter, including the State or territory providing for the Secretary or his representative being afforded access to such places of business and the facilities, inventories, and records thereof, and the taking of reasonable samples, where he determines necessary in carrying out his responsibilities under this chapter; and in such case the provisions of paragraph (b), (c), or (d) of this section, respectively, shall apply to such persons to the same extent and in the same manner as if they were engaged in such business in or for commerce and the transactions involved were in commerce.

(Pub. L. 85-172, § 11, Aug. 28, 1957, 71 Stat. 446; Pub. L. 90-492, § 11, Aug. 18, 1968, 82 Stat. 801.)

#### AMENDMENTS

1968—Pub. L. 90-492 designated existing provisions as par. (b), added pars. (a), and (c) to (e), and in par. (b), as so designated, extended the types of persons required to maintain records necessary for the enforcement of this chapter, required such persons to give representatives of the Secretary access to their places of business, and opportunity to examine records, facilities, and inventories and to copy records and take inventory samples upon payment.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of pars. (a) to (c) and (e) by Pub. L. 90-492 effective on Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

Addition of par. (d) by Pub. L. 90-492 effective upon the expiration of sixty days after Aug. 18, 1968, see section 20(c) of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 454, 461, 467e of this title.

## § 461. Offenses and punishment

### (a) Violations; liability of agents, employees, and employers

Any person who violates the provisions of section 458, 459, 460, 463, or 466 of this title shall be fined not more than $1,000 or imprisoned not more than one year, or both; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated (except as defined in section 453(g)(8) of this title), such person shall be fined not more than $10,000 or imprisoned not more than three years, or both. When construing or enforcing the provisions of said sections the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of his employment or office shall in every case be deemed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

**(b) Liability of carrier**

No carrier shall be subject to the penalties of this chapter, other than the penalties for violation of section 460 of this title, by reason of his receipt, carriage, holding, or delivery, in the usual course of business, as a carrier, of poultry or poultry products, owned by another person unless the carrier has knowledge, or is in possession of facts which would cause a reasonable person to believe that such poultry or poultry products were not inspected or marked in accordance with the provisions of this chapter or were otherwise not eligible for transportation under this chapter or unless the carrier refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such poultry or poultry products, and copies of all documents, if any there be, pertaining to the delivery of the poultry or poultry products to such carrier.

**(c) Assaulting, resisting, or impeding certain persons; murder; punishments**

Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this chapter shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such acts, uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this chapter shall be punished as provided under sections 1111 and 1114 of title 18.

(Pub. L. 85-172, § 12, Aug. 28, 1957, 71 Stat. 446; Pub. L. 90-492, § 12, Aug. 18, 1968, 82 Stat. 802.)

### AMENDMENTS

1968—Par. (a). Pub. L. 90-492, § 12(a), added the reference to violations of section 463 of this title, and substituted provisions that violators of the enumerated sections shall be fined not more than $1,000 or imprisoned not more than one year, or both, but that in cases involving intent to defraud, or any distribution or attempt to distribute adulterated articles, except as defined in section 453(g) of this title, the violators shall be fined not more than $10,000 or imprisoned not more than three years, or both, for provisions that violators shall be guilty of a misdemeanor and subject to imprisonment for not more than six months or a fine of not more than $3,000, or both, with increased fines and imprisonment for any subsequent violations.

Par. (b). Pub. L. 90-492, § 12(b), substituted "of poultry" for "of slaughtered poultry", "such poultry" for "such slaughtered poultry", and "otherwise not eligible" for "not otherwise eligible", and added the provision that no carrier shall be subject to punishment unless the carrier refuses to furnish the name and address of the person from whom he received such poultry or poultry products, and copies of any documents pertaining to the delivery of the poultry or poultry products to such carrier.

Par. (c). Pub. L. 90-492, § 12(c), added par. (c).

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 454 of this title.

## § 462. Reporting of violations; notice; opportunity to present views

Before any violation of this chapter is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding. Nothing in this chapter shall be construed as requiring the Secretary to report for criminal prosecution violations of this chapter whenever he believes that the public interest will be adequately served and compliance with the chapter obtained by a suitable written notice or warning.

(Pub. L. 85-172, § 13, Aug. 28, 1957, 71 Stat. 447.)

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 454 of this title.

## § 463. Rules and regulations

**(a) Storage and handling of poultry products; violation of regulations**

The Secretary may by regulations prescribe conditions under which poultry products capable of use as human food, shall be stored or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, or transporting, in or for commerce, or importing, such articles, whenever the Secretary deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Violation of any such regulation is prohibited.

**(b) Other necessary rules and regulations**

The Secretary shall promulgate such other rules and regulations as are necessary to carry out the provisions of this chapter.

**(c) Oral presentation of views**

In applying the provisions of section 553(c) of title 5 to proposed rule making under this chapter, an opportunity for the oral presentation of views shall be accorded all interested persons.

(Pub. L. 85-172, § 14, Aug. 28, 1957, 71 Stat. 447; Pub. L. 90-492, § 13, Aug. 18, 1968, 82 Stat. 803.)

### AMENDMENTS

1968—Pub. L. 90-492 designated existing provisions as par. (b), added pars. (a) and (c), and in par. (b), as so designated, substituted "such other rules" for "such rules".

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 454, 461 of this title.

## § 464. Exemptions

### (a) Persons exempted

The Secretary shall, by regulation and under such conditions as to sanitary standards, practices, and procedures as he may prescribe, exempt from specific provisions of this chapter—

(1) retail dealers with respect to poultry products sold directly to consumers in individual retail stores, if the only processing operation performed by such retail dealers is the cutting up of poultry products on the premises where such sales to consumers are made;

(2) for such period of time as the Secretary determines that it would be impracticable to provide inspection and the exemption will aid in the effective administration of this chapter, any person engaged in the processing of poultry or poultry products for commerce and the poultry or poultry products processed by such person: *Provided, however*, That no such exemption shall continue in effect on and after January 1, 1970; and

(3) persons slaughtering, processing, or otherwise handling poultry or poultry products which have been or are to be processed as required by recognized religious dietary laws, to the extent that the Secretary determines necessary to avoid conflict with such requirements while still effectuating the purposes of this chapter.

### (b) Territorial exemption

The Secretary may, under such sanitary conditions as he may by regulations prescribe, exempt from the inspection requirements of this chapter the slaughter of poultry, and the processing of poultry products, by any person in any Territory not organized with a legislative body, solely for distribution within such Territory, when the Secretary determines that it is impracticable to provide such inspection within the limits of funds appropriated for administration of this chapter and that such exemption will aid in the effective administration of this chapter.

### (c) Personal slaughtering; custom slaughtering; name and address of the poultry producer or processor in lieu of other labeling requirements; small enterprises; slaughterers or processors of specified number of turkeys; poultry producers raising poultry on own farms

(1) The Secretary shall, by regulation and under such conditions, including sanitary standards, practices, and procedures, as he may prescribe, exempt from specific provisions of this chapter—

(A) the slaughtering by any person of poultry of his own raising, and the processing by him and transportation in commerce of the poultry products exclusively for use by him and members of his household and his nonpaying guests and employees;

(B) the custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing by such slaughterer and transportation in commerce of the poultry products exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees: *Provided*, That such custom slaughterer does not engage in the business of buying or selling any poultry products capable of use as human food;

(C) the slaughtering and processing of poultry products in any State or Territory or the District of Columbia by any poultry producer on his own premises with respect to sound and healthy poultry raised on his premises and the distribution by any person solely within such jurisdiction of the poultry products derived from such operations, if, in lieu of other labeling requirements, such poultry products are identified with the name and address of such poultry producer, and if they are not otherwise misbranded, and are sound, clean, and fit for human food when so distributed; and

(D) the slaughtering of sound and healthy poultry or the processing of poultry products of such poultry in any State or territory or the District of Columbia by any poultry producer or other person for distribution by him solely within such jurisdiction directly to household consumers, restaurants, hotels, and boarding houses, for use in their own dining rooms, or in the preparation of meals for sales direct to consumers, if, in lieu of other labeling requirements, such poultry products are identified with the name and address of the processor, and if they are not otherwise misbranded and are sound, clean, and fit for human food when distributed by such processor.

The exemptions provided for in clauses (C) and (D) above shall not apply if the poultry producer or other person engages in the current calendar year in the business of buying or selling any poultry or poultry products other than as specified in such clauses.

(2) In addition to the specific exemptions provided herein, the Secretary shall, when he determines that the protection of consumers from adulterated or misbranded poultry products will not be impaired by such action, provide by regulation, consistent with subparagraph (3), for the exemption of the operation and products of small enterprises (including poultry producers), not exempted under subparagraph (1), which are engaged in any State or Territory or the District of Columbia in slaughtering and/or cutting up poultry for distribution as carcasses or parts thereof solely for distribution within such jurisdiction, from such provisions of this chapter as he deems appropriate, while still protecting the public from adulterated or misbranded products, under such conditions, including sanitary requirements, as he shall prescribe to effectuate the purposes of this chapter.

(3) No exemption under subparagraph (1)(C) or (D) or subparagraph (2) shall apply to any poultry producer or other person who, in the current calendar year—

(A) slaughters or processes the products of more than 20,000 poultry; or

(B) slaughters or processes the products of poultry at a facility used for slaughtering or processing of the products of poultry by any other poultry producer or person.

Notwithstanding clause (B), the Secretary may grant such exemption to any poultry producer or other person if the Secretary determines, upon application of such poultry producer or other person, that granting such exemption will not impair effectuating the purposes of this chapter.

(4) The provisions of this chapter shall not apply to poultry producers with respect to poultry of their own raising on their own farms if (i) such producers slaughter not more than 1,000 poultry during the calendar year for which this exemption is being determined; (ii) such poultry producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms; and (iii) none of such poultry moves in commerce (as defined in section 453(a) of this title).

**(d) Applicability of adulteration and misbranding provisions to articles exempted from inspection**

The adulteration and misbranding provisions of this chapter, other than the requirement of the inspection legend, shall apply to articles which are exempted from inspection under this section, except as otherwise specified under paragraphs (a) and (c).

**(e) Suspension or termination of exemption**

The Secretary may by order suspend or terminate any exemption under this section with respect to any person whenever he finds that such action will aid in effectuating the purposes of this chapter.

(Pub. L. 85-172, § 15, Aug. 28, 1957, 71 Stat. 447; Pub. L. 90-492, § 14, Aug. 18, 1968, 82 Stat. 803; Pub. L. 97-206, June 30, 1982, 96 Stat. 136.)

### AMENDMENTS

1982—Par. (c)(3). Pub. L. 97-206, § 1, substituted provisions that no exemption would be given to persons who during the current calendar year either slaughter or process the products of more than 20,000 poultry, or slaughter or process such poultry at a facility of another poultry producer or person, but that, in the latter case, the Secretary may grant the exemption upon application of such poultry producer or person if granting such exemption would not impair the purposes of this chapter, for provisions that an exemption would not be granted to those who slaughter or process the products of more than 5,000 turkeys or an equivalent number of poultry of all species in the current calendar year (four birds of other species being deemed equivalent of one turkey).

Par. (c)(4)(i). Pub. L. 97-206, § 2, substituted "1,000 poultry during the calendar year for which this exemption is being determined" for "250 turkeys, or not more than an equivalent number of birds of all species during the calendar year for which this exemption is being determined (four birds of other species being deemed the equivalent of one turkey)".

1968—Par. (a). Pub. L. 90-492, § 14(a), (b), redesignated former subpars. (2) to (4) as (1) to (3), respectively, and in subpar. (2), as so redesignated, substituted "January 1, 1970" for "July 1, 1960". Former subpar. (1), which exempted poultry producers with respect to poultry of their own raising on their own farms which they sold directly to household consumers, hotels, etc., for use in their own dining rooms or in the preparation of meals for sales direct to consumers only, provided that such producers did not engage in buying or selling poultry products other than those produced from poultry raised on their own farms, was struck out.

Par. (b). Pub. L. 90-492, § 14(c), added par. (b). Former par. (b) was redesignated as (e).

Pars. (c), (d). Pub. L. 90-492, § 14(c), added pars. (c) and (d).

Par. (e). Pub. L. 90-492, § 14(c), redesignated former par. (b) as (e).

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective upon the expiration of sixty days after Aug. 18, 1968, see section 20(b) of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 454 of this title.

## § 465. Limitations upon entry of poultry products and other materials into official establishments

The Secretary may limit the entry of poultry products and other materials into any official establishment, under such conditions as he may prescribe to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this chapter.

(Pub. L. 85-172, § 16, Aug. 28, 1957, 71 Stat. 448; Pub. L. 90-492, § 15, Aug. 18, 1968, 82 Stat. 805.)

### AMENDMENTS

1968—Pub. L. 90-492 substituted provisions authorizing the Secretary to limit the entry of poultry products and other materials into any official establishment for provisions that any person distributing unwholesome or adulterated exempted poultry or poultry products intended for human consumption shall be guilty of a misdemeanor and subject to penalties upon conviction thereof.

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 454 of this title.

## § 466. Imports

**(a) Compliance with standards and regulations; status after importation**

No slaughtered poultry, or parts or products thereof, of any kind shall be imported into the United States unless they are healthful, wholesome, fit for human food, not adulterated, and contain no dye, chemical, preservative, or ingredient which renders them unhealthful, unwholesome, adulterated, or unfit for human food and unless they also comply with the rules and regulations made by the Secretary of Agriculture to assure that imported poultry or poultry products comply with the standards provided for in this chapter. All imported, slaughtered poultry, or parts or products thereof, shall after entry into the United States in compliance with such rules and regulations be deemed and treated as domestic slaughtered poultry, or parts or products thereof, within the meaning and subject to the provisions of this chapter and the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], and Acts amendatory of, supplemental to, or in substitution for such chapter and Act.

### (b) Rules and regulations; destruction and exportation of refused imports

The Secretary of Agriculture is authorized to make rules and regulations to carry out the purposes of this section and in such rules and regulations the Secretary of Agriculture may prescribe the terms and conditions for the destruction of all slaughtered poultry, or parts or products thereof, offered for entry and refused admission into the United States unless such slaughtered poultry, or parts or products thereof, be exported by the consignee within the time fixed therefor in such rules and regulations.

### (c) Storage, cartage and labor charges for imports refused admission

All charges for storage, cartage, and labor with respect to any product which is refused admission pursuant to this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any other products imported thereafter by or for such owner or consignee.

(Pub. L. 85-172, § 17, Aug. 28, 1957, 71 Stat. 448.)

### References in Text

The Federal Food, Drug, and Cosmetic Act, referred to in par. (a), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

### Section Referred to in Other Sections

This section is referred to in sections 454, 461 of this title.

## § 467. Inspection services

### (a) Refusal or withdrawal; hearing; business unfitness based upon certain convictions; persons responsibly connected with the business

The Secretary may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this chapter) refuse to provide, or withdraw, inspection service under this chapter with respect to any establishment if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection upon this chapter because the applicant or recipient or anyone responsibly connected with the applicant or recipient, has been convicted, in any Federal or State court, within the previous ten years of (1) any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with transactions in food; or (2) any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health. For the purpose of this paragraph a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock or employee in a managerial or executive capacity.

### (b) Hearing to determine validity of withdrawal or refusal of inspection services; continuation of withdrawal or refusal

Upon the withdrawal of inspection service from any official establishment for failure to destroy condemned poultry products as required under section 455 of this title, or other failure of an official establishment to comply with the requirements as to premises, facilities, or equipment, or the operation thereof, as provided in section 456 of this title, or the refusal of inspection service to any applicant therefor because of failure to comply with any requirements under section 456 of this title, the applicant for, or recipient of, the service shall, upon request, be afforded opportunity for a hearing with respect to the merits or validity of such action; but such withdrawal or refusal shall continue in effect unless otherwise ordered by the Secretary.

### (c) Finality and conclusiveness of determination; judicial review; record

The determination and order of the Secretary when made after opportunity for hearing, with respect to withdrawal or refusal of inspection service under this chapter shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the United States Court of Appeals as provided in section 457 of this title. Judicial review of any such order shall be upon the record upon which the determination and order are based. The provisions of section 194 of title 7 shall be applicable to appeals taken under this section.

(Pub. L. 85-172, § 18, Aug. 28, 1957, 71 Stat. 448; Pub. L. 90-492, § 16, Aug. 18, 1968, 82 Stat. 805.)

### Amendments

1968—Par. (a). Pub. L. 90-492 substituted provisions authorizing the Secretary to refuse or withdraw inspection services subsequent to a hearing determining that the applicant or recipient is unfit to engage in any business requiring inspection under this chapter based upon the specified considerations, for provisions granting the Secretary exclusive jurisdiction within the scope of this chapter and exempting poultry and poultry products from the provisions of the Federal Food, Drug, and Cosmetic Act, as amended, to the extent of the application or the extension thereof of the provisions of this chapter.

Par. (b). Pub. L. 90-492 substituted provisions granting a hearing, upon request by the applicant or recipient, to determine the merits and validity of the withdrawal or refusal of inspection services and continuing such withdrawal or refusal in effect, unless otherwise ordered by the Secretary, for provisions authorizing the Secretary to cooperate with other branches of government and with State agencies and to conduct examinations, investigations, and inspections through any officer or employee of a State commissioned by the Secretary for such purpose.

Par. (c). Pub. L. 90-492 added par. (c).

#### Effective Date of 1968 Amendment

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as an Effective Date of 1968 Amendment note under section 451 of this title.

#### Section Referred to in Other Sections

This section is referred to in sections 454, 467c of this title.

### § 467a. Administrative detention; duration; pending judicial proceedings; notification of government authorities; release; removal of official marks

Whenever any poultry product, or any product exempted from the definition of a poultry product, or any dead, dying, disabled, or diseased poultry is found by any authorized representative of the Secretary upon any premises where it is held for purposes of, or during or after distribution in, commerce or otherwise subject to this chapter, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of this chapter or of any other Federal law or the laws of any State or Territory, or the District of Columbia, or that it has been or is intended to be, distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed twenty days, pending action under section 467b of this title or notification of any Federal, State, or other governmental authorities having jurisdiction over such article or poultry, and shall not be moved by any person, from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or poultry before it is released unless it appears to the satisfaction of the Secretary that the article or poultry is eligible to retain such marks.

(Pub. L. 85-172, § 19, as added Pub. L. 90-492, § 17, Aug. 18, 1968, 82 Stat. 805.)

#### Section Referred to in Other Sections

This section is referred to in sections 454, 467f of this title.

### § 467b. Seizure and condemnation

#### (a) Proceedings in rem; libel of information; jurisdiction; disposal by destruction or sale; proceeds into the Treasury; sales restrictions; bonds; court costs and fees, storage, and other expenses against claimants; jury trial; United States as plaintiff

Any poultry product, or any dead, dying, disabled, or diseased poultry, that is being transported in commerce or otherwise subject to this chapter, or is held for sale in the United States after such transportation, and that (1) is or has been processed, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter, or (2) is capable of use as human food and is adulterated or misbranded, or (3) in any other way is in violation of this chapter, shall be liable to be proceeded against and seized and condemned, at any time, on a libel of information in any United States district court or other proper court as provided in section 467c of this title within the jurisdiction of which the article or poultry is found. If the article or poultry is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the article or poultry shall not be sold contrary to the provisions of this chapter, or the laws of the jurisdiction in which it is sold: *Provided*, That upon the execution and delivery of a good and sufficient bond conditioned that the article or poultry shall not be sold or otherwise disposed of contrary to the provisions of this chapter, or the laws of the jurisdiction in which disposal is made, the court may direct that such article or poultry be delivered to the owner thereof subject to such supervision by authorized representatives of the Secretary as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the article or poultry and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article or poultry. The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

#### (b) Condemnation or seizure under other provisions unaffected

The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this chapter, or other laws.

(Pub. L. 85-172, § 20, as added Pub. L. 90-492, § 17, Aug. 18, 1968, 82 Stat. 806.)

#### Federal Rules of Civil Procedure

Admiralty and maritime rules of practice (which included libel procedures) were superseded, and civil and admiralty procedures in United States district courts were unified, effective July 1, 1966, see rule 1 and Supplemental Rules for Certain Admiralty and Maritime Claims, Title 28, Appendix, Judiciary and Judicial Procedure.

#### Section Referred to in Other Sections

This section is referred to in sections 454, 467a of this title.

### § 467c. Federal court jurisdiction of enforcement and injunction proceedings and other kinds of cases; limitations; United States as plaintiff; subpenas

The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this chapter, and shall have jurisdiction in all other kinds of cases arising under this chapter, except as provided in section 457(d) or 467 of this title. All proceedings for the enforcement or to restrain violations of this chapter shall be by and in the name of the United States. Subpenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

(Pub. L. 85-172, § 21, as added Pub. L. 90-492, § 17, Aug. 18, 1968, 82 Stat. 806.)

### Section Referred to in Other Sections

This section is referred to in sections 454, 467b, 467d of this title.

## § 467d. Administration and enforcement; applicability of penalty provisions; conduct of inquiries; power and jurisdiction of courts

For the efficient administration and enforcement of this chapter, the provision (including penalties) of sections 46, 48, 49 and 50 of title 15 (except paragraphs (c) through (h) of section 46 of title 15 and the last paragraph of section 49 of title 15), and the provisions of section 409(*l*) of title 47, are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this chapter and to any person with respect to whom such authority is exercised. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this chapter in any part of the United States, and the powers conferred by said sections 49 and 50 of title 15 on the district courts of the United States may be exercised for the purposes of this chapter by any court designated in section 467c of this title.

(Pub. L. 85-172, § 22, as added Pub. L. 90-492, § 17, Aug. 18, 1968, 82 Stat. 807.)

### References in Text

The last paragraph of section 49 of title 15, and the provisions of section 409(*l*) of title 47, referred to in text, which related to immunity of witnesses, were repealed by sections 211 and 242 of Pub. L. 91-452, Oct. 15, 1970, title II, 84 Stat. 929, 930, respectively. For provisions relating to immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

### Section Referred to in Other Sections

This section is referred to in section 454 of this title.

## § 467e. Non-Federal jurisdiction of federally regulated matters; prohibition of additional or different requirements for establishments with inspection services and as to marking, labeling, packaging, and ingredients; recordkeeping and related requirements; concurrent jurisdiction over distribution for human food purposes of adulterated or misbranded and imported articles; other matters

Requirements within the scope of this chapter with respect to premises, facilities and operations of any official establishment which are in addition to, or different than those made under this chapter may not be imposed by any State or Territory or the District of Columbia, except that any such jurisdiction may impose recordkeeping and other requirements within the scope of paragraph (b) of section 460 of this title, if consistent therewith, with respect to any such establishment. Marking, labeling, packaging, or ingredient requirements (or storage or handling requirements found by the Secretary to unduly interfere with the free flow of poultry products in commerce) in addition to, or different than, those made under this chapter may not be imposed by any State or Territory or the District of Columbia with respect to articles prepared at any official establishment in accordance with the requirements under this chapter, but any State or Territory or the District of Columbia may, consistent with the requirements under this chapter exercise concurrent jurisdiction with the Secretary over articles required to be inspected under this chapter for the purpose of preventing the distribution for human food purposes of any such articles which are adulterated or misbranded and are outside of such an establishment, or, in the case of imported articles which are not at such an establishment, after their entry into the United States. This chapter shall not preclude any State or Territory or the District of Columbia from making requirement or taking other action, consistent with this chapter, with respect to any other matters regulated under this chapter.

(Pub. L. 85-172, § 23, as added Pub. L. 90-492, § 17, Aug. 18, 1968, 82 Stat. 807.)

## § 467f. Federal Food, Drug, and Cosmetic Act applications

### (a) Exemptions; authorities under food, drug, and cosmetic provisions unaffected

Poultry and poultry products shall be exempt from the provisions of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et. seq.] to the extent of the application or extension thereto of the provisions of this chapter, except that the provisions of this chapter shall not derogate from any authority conferred by the Federal Food, Drug, and Cosmetic Act prior to August 18, 1968.

### (b) Enforcement proceedings; detainer authority of representatives of Secretary of Health and Human Services

The detainer authority conferred by section 467a of this title shall apply to any authorized representative of the Secretary of Health and Human Services for purposes of the enforcement of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] with respect to any poultry carcass, or part or product thereof, that is outside any official establishment, and for such purposes the first reference to the Secretary in section 467a of this title shall be deemed to refer to the Secretary of Health, Education, and Welfare.

(Pub. L. 85-172, § 24, as added Pub. L. 90-492, § 17, Aug. 18, 1968, 82 Stat. 807, and amended Pub. L. 96-88, title V, § 509(b), Oct. 17, 1[illegible], 93 Stat. 695.)

### References in Text

The Federal Food, Drug, and Cosmetic Act, referred to in text, is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9

(§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

CHANGE OF NAME

"Secretary of Health and Human Services" was substituted for "Secretary of Health, Education, and Welfare" in par. (b) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

### § 468. Cost of inspection; overtime

The cost of inspection rendered under the requirements of this chapter, shall be borne by the United States, except that the cost of overtime and holiday work performed in establishments subject to the provisions of this chapter at such rates as the Secretary may determine shall be borne by such establishments. Sums received by the Secretary in reimbursement for sums paid out by him for such premium pay work shall be available without fiscal year limitation to carry out the purposes of this section.

(Pub. L. 85-172, § 25, formerly § 19, Aug. 28, 1957, 71 Stat. 448, renumbered Pub. L. 90-492, § 17, Aug. 18, 1968, 82 Stat. 805.)

### § 469. Authorization of appropriations

There is authorized to be appropriated such sums as are necessary to carry out the provisions of this chapter.

(Pub. L. 85-172, § 26, formerly § 20, Aug. 28, 1957, 71 Stat. 449, renumbered Pub. L. 90-492, § 17, Aug. 18, 1968, 82 Stat. 805.)

### § 470. Reports to Congress

The Secretary shall annually report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate with respect to the slaughter of poultry subject to this chapter, and the preparation, storage, handling, and distribution of poultry parts, poultry products, and inspection of establishments operated in connection therewith, including the operations under and the effectiveness of this chapter.

(Pub. L. 85-172, § 27, as added Pub. L. 90-492, § 17, Aug. 18, 1968, 82 Stat. 807, and amended S. Res. 4, Feb. 4, 1977.)

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 454 of this title.

## Public Law 97-206
97th Congress

## An Act

June 30, 1982
[H.R. 3863]

**To amend the Poultry Products Inspection Act to increase the number of turkeys which may be slaughtered and processed without inspection under such Act, and for other purposes.**

Poultry Products Inspection Act, amendment.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 15(c)(3) of the Poultry Products Inspection Act (21 U.S.C. 464(c)(3)) is amended by striking out "slaughters" and all that follows and inserting in lieu thereof the following: ", in the current calendar year—

"(A) slaughters or processes the products of more than 20,000 poultry; or

"(B) slaughters or processes the products of poultry at a facility used for slaughtering or processing of the products of poultry by any other poultry producer or person.

Notwithstanding clause (B), the Secretary may grant such exemption to any poultry producer or other person if the Secretary determines, upon application of such poultry producer or other person, that granting such exemption will not impair effectuating the purposes of this Act.".

SEC. 2. Section 15(c)(4) of the Poultry Products Inspection Act (21 U.S.C. 464(c)(4)) is amended by striking out all of clause lettered (i) and inserting in lieu thereof the following: "(i) such producers slaughter not more than 1,000 poultry during the calendar year for which this exemption is being determined;".

Approved June 30, 1982.

# TITLE XVII—RELATED AND MISCELLANEOUS MATTERS

## Subtitle A—Processing, Inspection, and Labeling

### POULTRY INSPECTION

SEC. 1701. (a) Section 17 of the Poultry Products Inspection Act (21 U.S.C. 466) is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of law, all poultry, or parts or products thereof, capable of use as human food offered for importation into the United States shall—

"(A) be subject to the same inspection, sanitary, quality, species verification, and residue standards applied to products produced in the United States; and

"(B) have been processed in facilities and under conditions that are the same as those under which similar products are processed in the United States.

Prohibition.

"(2) Any such imported poultry article that does not meet such standards shall not be permitted entry into the United States.

"(3) The Secretary shall enforce this subsection through—

"(A) random inspections for such species verification and for residues; and

"(B) random sampling and testing of internal organs and fat of carcasses for residues at the point of slaughter by the exporting country, in accordance with methods approved by the Secretary.".

Effective date.
21 USC 466 note.

(b) The amendment made by this section shall become effective 6 months after the date of enactment of this Act.

# Meat and Poultry Inspection

## The Scientific Basis of the Nation's Program

Prepared by the Committee on the
Scientific Basis of the Nation's Meat and
Poultry Inspection Program

Food and Nutrition Board
Commission on Life Sciences
National Research Council

NATIONAL ACADEMY PRESS
Washington, D.C. 1985

# 1
# Executive Summary

The American public expects that meat and poultry products in the marketplace are as safe and wholesome as technically feasible, and public opinion polls indicate that consumers generally have confidence that this is so. Indeed, meat and poultry products that pass through the inspection system are, for the most part, wholesome. The wholesomeness of the nation's meat and poultry supply depends on each link in a chain from the farm to the slaughterhouse to the table. This report addresses primarily the ways in which the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA) can further strengthen its part of the chain not only to reduce the number of occurrences of bacterial infections but also to reduce chemical contamination and ensure the general safety and wholesomeness of meat and poultry.

The responsibility for ensuring the safety of meat and poultry products was conferred upon the USDA through a mandate in the Federal Meat Inspection Act of 1906 and subsequent acts and amendments. These documents directed the USDA to inspect meat and poultry products that enter commerce and are destined for human consumption. The wide-ranging obligations of the FSIS include the assurance of a sanitary environment in slaughter and processing plants and the monitoring of all relevant stages of animal slaughter as well as meat and poultry processing procedures. The overall goal of the inspection program has been to ensure that meat, poultry, and their products are wholesome, unadulterated, and properly labeled[1] and do not constitute a health hazard to the consumer. Toward this goal, FSIS personnel inspect meat and poultry products animal-by-animal and process-by-process in slaughterhouses and processing plants.

Slaughter inspectors rely almost completely on sight, smell, and touch to discern abnormalities in animals and carcasses. This procedure was designed primarily to protect consumers from grossly visible lesions or diseases. Although this labor-intensive system tends to ensure safe and wholesome products with respect to such lesions, its efficiency came under scrutiny by FSIS as science and technology advanced and the understanding of risks to human health became more defined.

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[1] The legal definition of these terms can be found in the Federal Meat Inspection Act (P.L. 59-242, as amended) and the Poultry Products Inspection Act (P.L. 85-172, as amended).

In 1906, acute infections were the leading causes of human mortality and morbidity. Today, more than 60% of all human deaths in this country each year are due to cardiovascular disease and cancer--chronic diseases attributed primarily to life-style, products of industrialization, and the increasing average age of the U.S. population. Also, through improved controls and deliverance of health care to farm animals, certain animal diseases have been virtually eradicated. The importation of diseased animals into the United States has essentially been prevented, and diseases that can be transmitted from animals to humans have been curtailed or in some cases practically eliminated.

Simultaneously, the production of meat and poultry products has become increasingly complex. In contrast to the few basic cuts of fresh meat and poultry available early in this century, there is now a great variety of raw, canned, cured, dried, fermented, and frozen products. The technological growth that made these products possible has contributed to the greater need for sophistication in determining the origin and path of food-borne microbial infections. Finally, environmental contaminants and the increasing use of chemicals in animal feeds and to some extent in processed foods have led to the presence of chemical residues in meat and poultry, some of which may be sources of potentially deleterious effects.

These changes have led FSIS to institute new programs and procedures. In the past two decades, FSIS began programs for determining microbial and chemical hazards in meat and poultry; modified inspection procedures for chickens, swine, and turkeys to increase production efficiency and decrease inspection time; and, in processing plants, started to shift the burden for maintaining the quality and safety of processed products to plant management under FSIS supervision.

Is the inspection system in place today adequate to meet new challenges? Are the initiatives taken by FSIS consistent with current concerns about public health? Can technological developments in the detection and control of deleterious microbiological and chemical agents and advances in assessment of risks to human health be better applied to meat and poultry inspection? This was the essence of the charge given by FSIS to the National Research Council's Committee on the Scientific Basis of the Nation's Meat and Poultry Inspection Program, which was established to conduct this study within the Food and Nutrition Board of the Commission on Life Sciences in conjunction with the Board on Agriculture.

The committee organized its tasks by identifying and categorizing various risks that could be presented by different parts of the production and processing operations. It then based its analysis on an assessment of the literature, discussions with experts from FSIS and the scientific community, public testimony of scientists and others from the public and private sectors, an independent survey of FSIS inspectors in meat and poultry plants, and site visits to selected plants. The assessment was limited by incomplete data, including the lack of systematic data on various phases of inspection as they relate to public health, and by the inherent difficulty of relating findings during inspection to endpoints affecting public health, such as the incidence or prevalence of human diseases.

The committee did not limit its study to those activities directly under the jurisdiction of FSIS. Rather, it considered all potential sources of health hazards in meat and poultry products, including farms, feedlots, and the ultimate destinations--the food establishments and the homes where foods are handled, stored, and cooked.

The conclusions reached and recommendations made by the committee are aimed at developing programs to ensure that the inspection system keeps pace with advances in knowledge and is efficient with regard to public health protection. The committee has also identified characteristics that in its judgment constitute an optimal meat and poultry inspection program.

## MAJOR CONCLUSIONS AND RECOMMENDATIONS

The meat and poultry inspection program of the FSIS has in general been effective in ensuring that apparently healthy animals are slaughtered in clean and sanitary environments. FSIS has made progress in reducing risks to public health from conditions that can be observed during antemortem and postmortem inspection and that can be evaluated during processing. However, substantial challenges continue to confront the agency. Some aspects of the inspection system are poorly defined in terms of objectives relevant to public health. A risk-based allocation of resources, supported by modern technology and a systematic evaluation of the program, would be valuable.

### Public Health Risks Related to Biological Agents

It is well established that species of *Salmonella* and *Campylobacter* are major causes of diseases transmissible to humans through the consumption of meat and poultry products, and the committee concluded that current postmortem inspection methods are not adequate to detect these organisms. For example, meat and poultry were implicated in 1,420 of the 2,666 food-borne disease outbreaks from known sources reported to the Centers for Disease Control (CDC) between 1968 and 1977. *Salmonella* contamination accounted for approximately 26% of all food-borne outbreaks in 1981. Meat and poultry were also responsible for 4 out of 23 outbreaks due to species of Campylobacter (a less easily detectable organism) reported to the CDC during 1981 and 1982. Of particular concern to the committee is the risk presented by food-borne microbial infections to susceptible subgroups such as young children and the elderly. Pathogenic microorganisms reside in the gastrointestinal tracts and on external surfaces of food-animals and cannot be detected by the usual organoleptic procedures (i.e., sight, smell, and touch) used during inspection. Therefore, human pathogens such as species of Salmonella, Campylobacter, Clostridium, and Staphylococcus are not ordinarily identified during slaughter.

Microbial contamination is common among fresh foods, including meat and poultry. Hazards from such contamination have been minimized, however, by FSIS inspection and by the USDA's educational efforts, which have resulted in improved handling of foods in slaughter and processing plants, food service facilities, and homes. Microorganisms in raw meat and poultry products can multiply, spread, and perhaps cross-contaminate other foods in food-service establishments and homes unless the products are handled properly in the plant, during transport, in retail outlets, and by the consumer after purchase. Proper handling and cooking are important to avoid contamination of meat and poultry by species of Salmonella and Campylobacter; for pork products that might contain the food-borne parasite Trichinella spiralis, proper cooking is essential.

Slaughterhouse employees are at especially high risk because of their exposure to infectious organisms that cause brucellosis and psittacosis--infections that humans can acquire by direct contact with diseased animals. Although an eradication program has effectively reduced the incidence of brucellosis in most of the U.S. population, the disease still occurs to some extent among slaughterhouse employees.

Recommendations. The committee recommends that FSIS intensify its current efforts to control and eliminate contamination with microorganisms that cause disease in humans. Such efforts should include evaluation of rapid diagnostic procedures for detecting microorganisms, especially species of Salmonella and Campylobacter, and education of the general public, health care personnel, educators, and extension service workers in the safe handling of meat and poultry. The committee also recommends that meat handling practices in plants be monitored and evaluated in an attempt to prevent the occurrence of meat- and poultry-derived infections among plant employees. Although their prevalance is low, these infections present significant and avoidable occupational hazards. Better epidemiological surveillance and coordination of efforts to eradicate these diseases are also needed. (See Chapters 3, 6, and 7 for a detailed discussion of biological agents in meat and poultry that pose a risk to human health.)

## Public Health Risks Related to Chemical Agents

The committee concluded that although significant strides have been made in protecting the public against exposure to hazardous chemicals in meat and poultry, the fundamental design of FSIS's residue monitoring program needs to be improved to ensure maximum protection. In particular, the committee questions the adequacy of sampling size and procedures, the basis for and the utility of tolerance levels for chemicals, and the basis for setting priorities for testing chemicals.

Through its National Residue Program (NRP), which was instituted in 1967, FSIS applies new technologies and testing procedures in the monitoring of approximately 100 of the chemicals that may be found in meat and poultry. The chemicals analyzed are selected on the basis of toxicity, exposure level, persistence, and other criteria. During postmortem inspection, samples are taken from each animal species to test for compliance with tolerance levels for the chemical, as well as to determine the frequency, trends, and distribution patterns of the chemical in meat and poultry. In addition, samples suspected of containing unacceptably high residue levels are examined so that remedial action can be taken. The current residue testing strategy of FSIS to detect with 95% confidence whether or not a problem exists in 1% of the animal population is inadequate to eliminate consumer exposure to residues. Because millions of animals are slaughtered annually (e.g., between 36 million and 40 million cattle alone), the chance of any animal being sampled in the United States is minuscule. Furthermore, because of the increasing number and variety of contaminating residues that may constitute possible health hazards, especially to susceptible subgroups in the population, and because the overall contamination rate of less than 1% may be considerably higher for certain food sources or consumer groups, the committee questions whether the size of the sampling plan is adequate.

The committee identified some desirable characteristics of an optimal system for the NRP and compared them with the current program. It concluded that the NRP now meets its primary objectives and has made considerable progress in several categories, but that it is deficient in 3 of 10 desirable characteristics. Its sampling plan is not adequate to provide maximum protection to consumers, there is no free communication with experts outside the agency, and there is no formal risk assessment and risk management program. The committee believes that a program based on rational public health objectives and risk assessment would contain many of the characteristics identified and would ensure that no one person would consistently be exposed to levels of chemicals in excess of established tolerance levels.

Recommendations. The committee recognizes that the NRP is constrained in many ways by its legislative mandates. It recommends, however, that the NRP strive to make substantial progress in several categories to meet the requirements for an optimal program identified by the committee. In particular, the NRP should incorporate strategies that would prevent consumers from exposure to potential health hazards. One of the ways this could be accomplished is to introduce a system to identify and trace back animals to their farms. The sampling plan to test chemical residues should be revised to improve the confidence level of detection by using appropriate statistical methods and new technological advances. Furthermore, the committee suggests that FSIS reexamine the priorities and the methods used by regulatory agencies for establishing tolerance levels of chemicals to ensure that they appropriately reflect the degree of risks to public health. Formal risk assessment and frequent communication with other regulatory agencies and with scientific peer-review groups would be particularly beneficial to FSIS in this endeavor (see Chapter 4).

## Production of Food-Animals

The committee concluded that the most effective way to prevent or minimize hazards presented by certain infectious agents and chemical residues in meat and poultry is to control these agents at their point of entry into the food chain, i.e., during the production phase on the farm and in feedlots. However, FSIS cannot exercise such control because it has no jurisdiction in those areas. Environmental contamination and improper use of feed additives fall within the purview of other government agencies such as the Food and Drug Administration and the Environmental Protection Agency. The problem is compounded by the absence of an effective national surveillance system for monitoring the disease status of food-animals and by an inadequate mechanism for tracing infected or contaminated animals back to their source.

Currently, the probability of successfully tracing a diseased or contaminated animal to the producer is very low (approximately 10% for cattle and 30% for swine). Furthermore, although samples at the postmortem stage are tested for chemical residues and certain microorganisms, there is no mechanism for reliably tracing an unacceptably high level to its origin. The inability to institute action at the first critical point of production (on the farm) places a heavy responsibility on antemortem and postmortem inspections to identify potential health hazards, although, as explained above, such inspections by themselves cannot solve the problem.

Cattle are produced in many parts of the United States, and ownership usually changes several times before the animals reach the slaughterhouse. Transport from farms to feedlots and subsequently to slaughterhouses increases the chance of exposure to infectious agents and subjects animals to considerable stress, thereby increasing their susceptibility to pathogenic agents.

Veterinary medical care and federal and state animal disease regulatory programs have considerably improved the health of food-animals in the United States and reduced the prevalence of diseases such as brucellosis and bovine tuberculosis. However, potential new risks are presented by chemical residues derived from the widespread practice of adding antimicrobial compounds and other chemicals to animal feed to promote growth or prevent infection.

The committee examined some recent case histories concerning residues and infectious agents. These included the polychlorinated biphenyl contamination through fatty animal by-products added to feed in the western United States in the summer of 1979, contamination of turkey products with chemical residues in the state of Washington during 1979, and polybrominated biphenyl contaminations in Michigan. The committee also investigated Salmonella contamination. In each of these cases, contamination at the farm creates a significant problem that is difficult for the inspection system to control by traditional inspection methods. Once animals reach the slaughterhouse, the line speeds and economic concerns necessitate sampling for residues on a very limited basis, and mostly with technology that is still quite imperfect and is not yet adequate to alleviate the problem.

The committee noted that voluntary identification (trace-back) programs have had some success in the swine and poultry industries due to the changing structure (through vertical integration) of those industries. Recent evidence also suggests that cooperative programs between farmers, slaughterers, and the government can be effective in minimizing problems before they reach the slaughterhouse.

Recommendations. The committee recommends that means be found for FSIS to coordinate the control and monitoring of hazardous agents during production, where those agents enter the food supply. Furthermore, it recommends that a system be developed for keeping track of food-animals during their lifetime, that procedures be instituted to trace residues in samples back to their sources, and that a national center be established to monitor and store information on animal diseases. To assist in these efforts, the committee recommends that all USDA animal disease surveillance programs be designed and implemented to use fully the animal disease prevalence data obtained from meat and poultry inspection programs.

## Meat and Poultry Processing and Inspection

For many years, FSIS used what is commonly referred to as traditional inspection procedures. Not until the last decade were some new procedures instituted. Between 1979 and 1983, for example, FSIS introduced several new postmortem inspection procedures designed to ensure wholesomeness, improve efficiency, and increase production: Modified Traditional Inspection and New Line Speed for chickens, New Swine Postmortem Inspection, and New Turkey Inspection procedures.

In the judgment of the committee, these new procedures are not likely to diminish protection of the public health. However, the committee could find no clear evidence that the traditional inspection system and modifications to it over the years are based on objectives and criteria that relate to public health. Furthermore, the committee could make no overall assessment of risks and benefits because it could find no comprehensive statement of criteria, no systematic accumulation of data, and no complete technical analysis of the hazards or benefits to human health in the traditional inspection program or as a consequence of the adoption of new techniques. Similarly, it could find no scientific basis for several ante- and postmortem disposition guidelines--for example, the requirement that livestock bitten by a rabid animal must not be slaughtered for at least 8 months, or that livestock showing signs of the onset of parturition should be withheld from slaughter until after the birth and the passage of the placenta (see Chapter 6).

A major change also took place in processing plants in 1980 when voluntary Total Quality Control (TQC) was first permitted. In essence, TQC places the major responsibility for producing safe products and inspecting them on the industry, which is monitored by FSIS. Currently, approximately 7% (475) of all meat and poultry processing plants have USDA-approved TQC systems in place; these plants produce 9% of the processed meat and poultry in the country. In principle, TQC is more systematic and objective than the traditional FSIS inspection procedure. A recent evaluation of 15 establishments using TQC suggests that it benefits both USDA and the industry and possibly inspires greater confidence in compliance because it allows the FSIS inspector to review a broader scope of plant operations. Universal and mandatory application of TQC, however, would require that all plants have a long record of compliance with FSIS's inspection guidelines, a commitment on the part of plant management, and better training of both meat packers and federal inspectors in quality control procedures than currently exists. The TQC system is a relatively new FSIS inspection system, and there is little experience on which to judge its public health benefits. In the committee's judgment, the FSIS-instituted changes in processing procedures are not likely to reduce public health protection.

Another approach to inspection--Hazard Analysis Critical Control Points (HACCP)--is used or is being considered for use in some operations. It consists of determining hazards, identifying critical control points where hazards can be eliminated, and monitoring those points (see Chapter 8). With proper modifications, HACCP can be applied to each phase of the food chain and in each plant.

Recommendations. Overall, the committee recommends that the precepts of risk assessment (identification of the problem, exposure assessment, hazard assessment, and quantitative health risk assessment) be systematically embodied in the planning and evaluation of all phases of meat and poultry inspection, and that risk-assessment criteria be used regularly to assess consequences to public health of any modifications in the inspection process (see Chapter 10).

Despite its preliminary conclusion based on the limited information that TQC works satisfactorily, the committee recommends that newer technologies be incorporated into TQC and that personnel be recruited and trained to increase the efficiency of the system. As explained below, the committee favors the incorporation of the HACCP approach into meat and poultry slaughtering and processing operations, including the TQC program.

Whereas traditional inspection applies primarily to the ante- and postmortem phases and TQC is currently applied during the processing of meat and poultry, HACCP is a comprehensive approach applicable to the range of operations from production of animals to slaughter, processing, and handling in retail outlets, food-service establishments, and homes. Traditional inspection and TQC are structured to comply with federal inspection regulations, which are concerned to a large extent with plant sanitation and with aesthetics and economy in producing safe and wholesome products. In contrast, HACCP is concerned primarily with criteria relevant to public health.

The committee recognizes that FSIS has implemented the principles of HACCP in certain operations; however, it recommends that those principles be applied more rapidly and comprehensively in plant operations and that periodic evaluations be performed to ensure that critical control points related to public health are emphasized in the inspection process in addition to whatever control points are needed for reasons related to aesthetics and economy. This should apply to both traditional and TQC approaches. To achieve both operational efficiency and protection of public health, critical control points must be identified, inspectors trained in the HACCP approach, and procedures regularly monitored.

## Advanced Technology

Although FSIS has adopted new technologies, the committee found that the efficiency of the current inspection and processing operations and the ability of those procedures to protect public health are impeded by the limited application of rapid, specific, and sensitive techniques to detect pathogenic microorganisms and deleterious chemicals in meat and poultry and by inadequate information acquisition and retrieval facilities. For example, the failure to apply sufficiently modern techniques to detect abnormalities in organs and tissues necessitates more extensive, yet less efficient, human resources during inspection.

The current FSIS computer capabilities for the acquisition, analysis, and transmission of data are relatively slow and are inadequate to meet the growing demands of the agency for rapid interpretation of, for example, data on the prevalence and public health implications of high levels of chemical and microbial residues in meat and poultry. Computer-assisted information systems with better capabilities are commercially available.

Recent advances in science and technology have made possible rapid, sensitive, and inexpensive techniques based on immunological and recombinant DNA principles (biotechnology), some of which can be applied at the farm level for screening microbial and chemical contaminants. The Swab Test on Premises (STOP) and the Calf Antibiotic Sulfonamide Test (CAST) are two such techniques used by FSIS for antimicrobial residues. STOP is a new fast screening test for antibiotics that is used at slaughter. CAST is a similar technique for antibiotics and sulfonamide residues. The results of these tests can be obtained within 24 hours, compared with 1 to 2 weeks using conventional methods.

Recommendations. In the judgment of the committee, the techniques that have the greatest potential applicability to FSIS procedures are imaging techniques, computer-assisted information transfer, and automated laboratory methods for analysis and measurement. To achieve the goal of installing a modern, technology-based system, the committee recommends that FSIS develop a capability for conducting or contracting for scientific and technical research tailored to its needs, rather than depending on other USDA agencies. However, interaction with other USDA agencies, other government agencies, and private groups is essential. Thus, the committee also recommends the establishment of a scientific advisory body composed of representatives from government, industry, universities, and research organizations to facilitate such interaction (see Chapter 9).

## CHARACTERISTICS OF AN OPTIMAL MEAT AND POULTRY INSPECTION PROGRAM

In view of the above conclusions and recommendations, the committee identified the following components (not in any order of priority) of an optimal meat and poultry inspection system. It recognizes that many of these components are part of the current FSIS system (see Chapter 10).

- A trace-back and recall system from final sale to producer for all animals and products destined to enter the human food supply. This is essential for the generation of data that are important to the prevention of disease in humans and that will enable processors and the government to solve problems in the food chain.

- Maximum use of plant personnel in process-by-process and day-to-day monitoring of critical control points, and FSIS oversight to ensure compliance.

- Use in all phases of inspection of a technically qualified team with up-to-date knowledge of veterinary medicine, food science, public health, food engineering, food technology, epidemiology, pathology, toxicology, microbiology, animal science, risk analysis, systems analysis, statistics, computer science, and economics. Similarly, managers should have expertise in several relevant disciplines, including veterinary medicine, food science and technology, nutrition, public health, and public management. No one discipline should dominate management.

- An inspection system with different levels of intensity, reflecting the degree of public health risk at various stages in the process, the reliability of the monitoring system, the compliance history of the slaughterhouse or processing plant, and the special needs of the intended consumer (e.g., military personnel and schoolchildren).

- Development of a list of the diseases that can be identified by each step in the inspection procedure. This list should be used to determine whether the steps are useful for protecting human or animal health, useful for detecting aesthetically objectionable conditions, necessary to protect consumers against fraud, or able to provide other identifiable benefits.

- Random sampling of retained or condemned carcasses and parts of carcasses in order to develop definitive diagnoses. These diagnoses can be used to establish baseline data on etiologies associated with each condemnation category and to provide material for pathology correlation sessions as continuing education for in-plant veterinary medical officers.

- Rapid, inexpensive screening tests to detect a broad array of chemical compounds and biological products that may be hazardous to the consumer.

- An adequate sampling plan, designed to protect the consumer from exposure to chemicals that are not randomly distributed across the country.

- Emphasis on hazard analysis and critical control points (HACCP), limiting inspection where the historic yield of violations is low and where public health risks are negligible.

- Documented assurance, backed by substantial compliance enforcement, of the sanitary wholesomeness of all meat and poultry products.

- Enhanced enforcement capability to impose a broad range of penalties upon violators, including refusal to inspect and approve their products.

- Adequate resources to ensure continued improvement of the technological base of FSIS, including the development of new inspection technologies to reduce cross-contamination of carcasses and more comprehensive assessment of toxicological hazards.

- A mandatory system of initial and continuing education for inspection personnel that emphasizes food science, food technology, pathology, and public health, combined with a recertification program.

- A substantial scientific and technical FSIS staff of respected scientists who play a substantial consultative role in the development of policy.

- The presence of standing advisory panels composed primarily of outside experts to provide consultation on both policy and practice regarding meat and poultry safety. Disciplines represented on these panels should include food science and technology, computer applications, microbiology, biostatistics, epidemiology, veterinary medicine, toxicology, systems analysis, animal health, economics, marketing, nutrition, and risk analysis. Again, no one discipline should dominate any panel. All major regulatory proposals should be reviewed by standing advisory panels prior to finalization.

- Strong liaison between FSIS, CDC, the Food and Drug Administration, and relevant animal health agencies at the federal, state, and local levels to ensure that no hazards are overlooked.

- Substantial use of a rapid, timely, and flexible system (probably computer-based) to acquire, transfer, analyze, and make more widely available data related to inspection and to meat-borne hazards.

The committee encourages FSIS to compare its program with these criteria and to establish a schedule for incorporating missing components as soon as feasible.

# Poultry Inspection

## The Basis for a Risk-Assessment Approach

Prepared by the Committee on
Public Health Risk Assessment of
Poultry Inspection Programs

Food and Nutrition Board
Commission on Life Sciences
National Research Council

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# CHAPTER 1

# EXECUTIVE SUMMARY

The production, slaughter, and distribution of broiler chickens (fryers) has become a major food industry that touches the lives of most Americans. Poultry products are currently consumed at a rate of well over 4 billion birds per year in the United States. Those products that pass through the inspection system required by law are, for the most part, wholesome. But because these products are potentially important vehicles of bacterial and chemical contaminants, the primary government agency charged with the oversight of poultry slaughter, the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA), has for the past decade been attempting to improve the effectiveness of poultry inspection by studying, testing, and reviewing several modifications of the existing program. Its goal has been to develop a system that retains the bird-by-bird inspection mandated by law, incorporates new technological advances, and more directly addresses public health concerns.

In 1983, recognizing the need to evaluate these proposed changes in inspection procedures, the Administrator of FSIS requested that the Food and Nutrition Board (FNB) of the National Research Council (NRC) examine the scientific basis of USDA's meat and poultry inspection program. The committee appointed to perform that task, the Committee on the Scientific Basis of the Nation's Meat and Poultry Inspection Programs, thoroughly evaluated current FSIS inspection programs. During the course of its study of those programs the committee observed that it could not find a comprehensive statement of criteria justifying inspection procedures, a systematic data base on contaminants, or a technically complete analysis of the benefits to human health resulting from the inspection process. That is, in general it found that it is not possible to determine from existing data whether current inspection programs actually fulfill their goal of protecting the public health. That committee considered whether to recommend a move to one of the newly proposed, less-than-continuous postmortem inspection systems but concluded that no such changes should be recommended until justified by a detailed risk analysis of the public health risks involved. It recommended that FSIS establish a risk-assessment program and apply formal risk-assessment procedures to assist in planning and evaluating all phases of poultry production in which hazards to public health might occur.

In response to that committee's assessment, which was published in 1985,[1] FSIS requested that FNB conduct another study to develop a risk-assessment model for comparing the effects on public health that might result from different postmortem inspection goals and strategies, to evaluate the public health risks associated with broiler chickens, and to review the advantages of a sampling program as part of an overall quality assurance program for poultry slaughter.

This report describes the findings of the Committee on Public Health Risk Assessment of USDA Poultry Inspection Programs, which was appointed to conduct the second study. The committee began its task by reviewing the ways in which traditional and new inspection procedures are related to public health. It soon decided that to evaluate poultry-related public health risks properly, it would be necessary to consider in addition to postmortem inspection various aspects of the poultry processing system outside the purview of FSIS, for example, growing conditions, preparation and handling, and cooking. Viewing the poultry processing system as a whole, the committee developed a conceptual risk-assessment model that could serve as a prototype for assessing public health risks associated with the entire spectrum of activities involved in poultry production, slaughter, processing, preparation, and consumption (referred to in this summary as the poultry system). It then evaluated the two most important health hazards associated with poultry--microbial and chemical contaminants--within the context of the model.

The conclusions and recommendations described in the following paragraphs derive from the committee's qualitative application of the model to the available information on poultry health hazards. Since the current data base is essentially the same as that used in the 1985 report, the present committee did not conduct another comprehensive evaluation of the FSIS poultry inspection program but, rather, focused on developing the risk-assessment model and delineating how it might be used to evaluate FSIS programs. As requested by FSIS, emphasis in this report has been placed on the use of risk assessment as a tool for evaluation. Some aspects of risk management that may lead to solutions of risk problems by FSIS are briefly described in Chapters 3, 4, and 5.

## GENERAL CONCLUSIONS

The committee concluded that a risk-assessment approach is needed to evaluate health hazards associated with poultry. Accordingly, it developed a risk model, which is divided into submodels representing five different phases of the poultry system. These submodels are further broken down into various components. The model can be used to identify sources of health hazards, to suggest means of controlling their introduction, and to assess uncertainties in the ability to link public health consequences with specific hazards. Because the structure of any model reflects the particular perspective and knowledge of its designers, the conclusions and recommendations of the committee based on its model reflect its perception of how the poultry industry is most logically and usefully subdivided.

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[1] The committee's report, Meat and Poultry Inspection: The Scientific Basis of the Nation's Program, was published by the National Academy Press.

As stated in Chapter 3, the committee concluded that the present system of continuous inspection provides little opportunity to detect or control the most significant health risks associated with broiler chickens. Although information is not sufficient for the committee to conclude that the FSIS inspection program has no public health benefits, the weight of the evidence does suggest that the current program can not provide effective protection against the risks presented by microbial agents that are pathogenic to humans.

The committee concluded that risk assessment is one of the most valuable tools available to serve regulatory agencies such as FSIS because it facilitates a structured approach to the evaluation of information as well as an explicit, consistent, and logical treatment of data. Furthermore, it heightens awareness of uncertainties in the data and entails consideration of current scientific knowledge. If risk assessment were to be used by FSIS to identify health hazards associated with poultry, the most likely outcome would be to reduce public exposure to those hazards. This outcome would be dependent on implementing procedures that assign priorities based on the potential for reducing the magnitude of risk associated with a given hazard and on the prevention of risks instead of coping with them after they are present.

An effective risk-management program will consist of several monitoring activities, some of which are outside FSIS authority. Therefore, a comprehensive effort to protect the public from poultry-associated hazards will require an active and consistent liaison between FSIS and other government agencies. Attempts to control these public health risks could be significantly compromised without such interagency cooperation.

The committee confirmed that the current data base can serve as the basis for a comprehensive, quantitative risk assessment only for certain well-characterized chemical residues. For many purposes, however, including initial planning and evaluation of inspection strategies, it is sufficient and useful to perform qualitative assessments, such as that done by the committee in this report.

## GENERAL RECOMMENDATIONS

- FSIS should adopt the well-established precepts of risk assessment as an integral part of its strategy to identify and manage public health risks associated with poultry. The committee's risk model can serve as a prototype that FSIS can refine by applying its extensive knowledge of the poultry system.

- FSIS should evaluate the current inspection system by using the risk-assessment model proposed by the committee and on the basis of its findings, modify the system so that it more directly addresses public health concerns.
- Rather than focusing on one procedure, such as bird-by-bird inspection, as the primary component of an inspection process, FSIS should direct its efforts toward the establishment of a comprehensive quality assurance program. Such a program would consist of several components, one of which might be organoleptic inspection.
- Emphasis should be shifted from detection to prevention of problems at the earliest feasible stage in production to increase the effectiveness of poultry risk-management activities.

## A RISK-ASSESSMENT MODEL FOR POULTRY-ASSOCIATED HAZARDS

The process of risk assessment requires first a conceptual framework and second a risk model. For its conceptual framework, the committee adopted the well-accepted view of the role and nature of risk assessment developed in 1983 by the National Research Council's Committee on the Institutional Means for Assessment of Risks to Public Health, which proposed that risk assessment proceed in four steps: hazard identification, dose-response assessment, exposure assessment, and risk characterization. The use of these four steps helps to ensure the inclusion of all factors that determine risk. Successful execution of the final step, risk characterization, is dependent on the development and application of a model such as that proposed by the committee in Chapter 3.

In developing its model, the committee reviewed the major risk agents (pathogenic microorganisms or their toxins, and chemical residues) associated with the five major divisions (or submodels) of the poultry system: production (grow-out); slaughter; packing and processing; distribution and preparation; and consumption. The model includes all phases of processing in which hazards might be present, the sources from which risk agents are generated or released, routes of human exposure, and mechanisms by which the exposure can result in adverse health effects. The model provides one possible approach to the evaluation of current FSIS inspection programs. It can serve as a guide in the development of future programs and assist in determining the level of public health protection afforded by current inspection procedures.

### Conclusions

- The committee concluded that by conducting a qualitative examination of each component of the risk model it is possible to identify potential sources of health hazards and to suggest means of preventing their introduction.

- The committee's assessment suggests that to minimize public health risks, the traditional focus on slaughter should be expanded to include other potential sources of poultry-related hazards, such as production, preparation and handling, and cooking.
- Although qualitative risk assessments, such as those undertaken by the committee, are often sufficient to identify hazards and their probable sources, quantitative assessments are required to establish the validity and mechanisms of cause-and-effect relationships and to identify the magnitude of public health problems.
- As FSIS evaluates the poultry processing system with the objective of increasing public health protection, its managerial personnel will have to identify those circumstances in which quantitative assessments are justified on the basis of additional insights or improved clarity that they could lend to the decision-making process.

### Recommendations

- The committee's risk model should be regarded as a prototype that FSIS can modify and refine to suit its own special needs and goals.
- FSIS should attempt to ensure that all aspects of the poultry system are included in any risk model used, even if certain areas fall within the purview of other agencies.
- Qualitative risk assessments should form the initial bases for planning and selecting inspection and quality assurance programs. Quantitative assessments should be used when qualitative assessments prove inadequate and when sufficient data are available.

## MICROBIOLOGICAL HAZARDS AND POULTRY

*Salmonella* species and *Campylobacter jejuni* from all sources (i.e., not from chickens alone) are each responsible for up to 2,000 cases of gastroenteric disease per 100,000 people per year in the United States. Illnesses caused by these microorganisms tend to be most severe among the very young, the very old, or patients with immunosuppressive diseases. The rate of infection tends to increase with increasing size of the inoculum (dose), although a relatively low inoculum is sometimes capable of causing disease in humans. The potential for introduction of *Salmonella* and *Campylobacter*, the most commonly encountered human pathogens on chicken, is highly variable and may occur at multiple points during production, slaughter, and processing. After reviewing data related to the occurrence, potential for causing infection, and pathogenicity for humans of several microbial species known to be present on chicken, the committee drew the following conclusions, which are described in greater detail in Chapter 4.

## Conclusions

- Current inspection programs are not designed to detect the most important human pathogens found on poultry. This is evident from the reviews of FSIS inspection programs conducted by the present committee and the earlier Committee on the Scientific Basis of the Nation's Meat and Poultry Inspection Program.
- Minimizing microbial contaminants on poultry is a worthwhile objective, but it is premature to establish formal microbiological criteria for classifying raw products as microbiologically acceptable or unacceptable. The committee concluded that the data required to justify such formal regulatory standards do not exist..
- There is conclusive evidence that microorganisms pathogenic to humans (such as Salmonella and Campylobacter) are present on poultry at the time of slaughter and at retail.
- There is evidence linking disease in humans to the presence of pathogens on chickens. For example, epidemiological studies indicate that approximately 48% of Campylobacter infections are attributable to chicken. Data also suggest that chicken is probably an important source of salmonellosis in the United States.
- It is not known with certainty whether bacteria, viruses, and parasites that are common causes of disease in poultry can serve as food-borne pathogens for humans. Most of these organisms do not appear to be pathogenic in humans, but some may be. Thus, more data on the pathogenicity of these organisms are needed.

## Recommendations

The association between microorganisms in and on poultry at slaughter and the occurrence of disease in humans is complex. Several potential sources of contamination exist throughout the poultry system. The committee recognizes, therefore, that attempts to resolve this problem will be correspondingly difficult and may require collaboration with other agencies. On the basis of its review of the literature and established principles of microbiology, however, the committee recommends that certain actions such as the following be taken to reduce the potential for disease to be caused by poultry-borne microorganisms.

- The ongoing search for data on microbial risks should continue and be complemented by new research. Emphasis should be placed on the prevention of human disease rather than on simple control of microbial counts during slaughter and processing.
- Potentially pathogenic microorganisms on poultry should be identified, the potential for exposure to an infectious dose of each pathogen should be determined, and the potential impact on public health that would result from the failure to control exposures should be evaluated.
- The critical control points at which known pathogenic microorganisms such as Salmonella and Campylobacter may be introduced into the poultry system should be identified and monitored, preferably

as a part of an HACCP (Hazard Analysis Critical Control Point) program.

- A population-based surveillance program should be established so that disease occurrence can be correlated with inspection strategies. This will require measuring the level of pathogenic microorganisms on market-ready poultry as well as establishing a system for surveillence of disease within a well-defined population.
- A range of educational programs for people who raise poultry and for those who handle raw broilers in slaughterhouses, at retail, and during food preparation in the home and commercial establishments should be developed or intensified. As part of this effort, poultry products should be labeled at retail to inform consumers how to handle the poultry to prevent diseases originating from microbial contaminants.

## CHEMICAL HAZARDS AND POULTRY

The 1985 report Meat and Poultry Inspection contained a description and evaluation of the National Residue Program (NRP), which is the only formal program for monitoring chemical contaminants in poultry. In that report the committee concluded that the fundamental design of NRP needs to be improved to ensure protection from chemical hazards. In particular, it questioned the adequacy of sampling sizes and procedures, the basis for and the utility of tolerance levels as currently set, and the basis for setting priorities for testing. In light of these conclusions, the present committee approached its analysis of chemical risks by reviewing the current status of toxicological testing used in chemical risk assessments, by describing where information and data are needed to appropriately characterize various classes of chemicals, and by delineating eight necessary components of a program for controlling chemical contaminants (see Chapter 5). After examining data on the identification, toxicological properties, and occurrence of chemical hazards in poultry, and considering this information in the context of its model, the committee reached the conclusions listed below.

### Conclusions

- Adequate methods exist for identifying chemical hazards in poultry and estimating their toxicity. Toxicological risks associated with a wide variety of chemicals, including herbicides, pesticides, food additives, and food and drinking water contaminants, have for several years been assessed on the basis of data obtained from experiments in animals. These methods of risk assessment can be used for chemical contaminants in poultry, although to date they have been applied primarily to other routes of exposure.
- The entry of chemical residues into poultry can be controlled with approaches adopted by the Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA). These agencies have well-established procedures for systematically determining permissible levels of exposure to toxic chemicals and managing the points of entry

of such substances into various types of environments. These procedures include such steps as establishing acceptable daily intakes, determining residue levels at which no observable toxic effects occur, and setting priorities based on the relative magnitude of various hazards. The toxicological data bases used by these agencies may not, however, be completely adequate to set limits for all chemical residues in poultry.

- A comprehensive approach to the control of chemical residues is not now possible. Of the four classes of chemicals categorized by the committee according to source, adequate data on occurrence exist for only one: chemicals that are intentionally added to poultry feed and water or are given to poultry to modify growth or prevent disease. Thus, there is a need to identify contaminants from several other sources and to determine which of them present the greatest potentially reducible risks and should therefore receive highest priority in a control program.
- Risks attributable to chemical residues in poultry should be assessed on a routine basis, because new chemicals may be introduced intentionally or accidentally into the environment at any time and because the data base is constantly growing. For example, there is a continual increase in information on the safety of environmental chemicals, especially on subchronic and chronic toxicity, on the basic biochemistry of toxicological effects, and on the relevance of toxic effects in animal models to humans.
- A comprehensive analysis of the risk of chemical residues in poultry was not possible, but in examining the limited data available the committee found no evidence that such residues pose a significant threat to public health.

## Recommendations

The committee's major recommendations regarding chemical residues are based on its observation that important sources of residues are not considered in the FSIS monitoring program and that priorities for risk management are currently not set according to the relative magnitude of risk for known residues. If adopted by FSIS, the following recommendations should result in distinct improvements in the residue program:

- Using degree of risk as a basis, FSIS should establish priorities for monitoring residues and associated activities.
- Potentially hazardous chemical residues in poultry and their points of origin should be identified.
- The risks associated with identified hazardous residues should be determined.
- Using known risks as a basis, FSIS in collaboration with EPA and FDA should ensure that tolerance levels are set for known hazardous residues.
- Control programs to monitor the entry of residues into poultry should be developed.
- FSIS should determine how chemically contaminated poultry might

be removed from the marketplace or production line.

## CURRENT FSIS PROGRAMS AND STATISTICALLY BASED SAMPLING

Current poultry inspection procedures focus primarily on the removal of diseased and damaged chickens, which are identified by organoleptic inspection techniques: observing, smelling, and feeling. These objectives, along with maintaining a sanitary environment, are valid components of any food-related quality assurance program, but should not be the only goals. This traditional approach to inspection can provide a foundation for the control of public health risks, but an effective program requires a broadened scope of activities based on quality assurance principles. Over several decades, detailed studies of quality assurance techniques in diverse fields of production and manufacture have shown that prevention of problems is the most effective means of controlling product quality. Such studies have shown that optimal product quality is most efficiently achieved through continuous monitoring based on a well-planned sampling protocol. A statistically based sampling scheme as part of a comprehensive quality assurance program for poultry would therefore offer advantages such as the following:

- Management of contamination by preventing its introduction at the source.
- Quick response to accidental contamination and the ability to trace defective birds to their sources.
- Continuous monitoring to observe the effects that result from adjusting variables in the program.
- Greater flexibility of data applications and more efficient use of resources.
- Application of data to quantitative risk assessments when necessary.
- Examination of birds, both macroscopically and microscopically, as dictated by need.

It should not be inferred that in such a program current inspection procedures would be applied to a smaller but more select sample of birds. Instead, a formal sampling system (as described in Chapter 7) necessarily involves more thorough examination of a well-defined but random group of birds; it might incorporate, for example, two conventional stages used continuously and a third stage for special programs, as follows:

In the first stage, a subset of birds could be randomly sampled and inspected in detail for general faults and gross disease. In the second stage, a smaller subsample could be randomly selected for more detailed study, including microbial load and simple chemical tests at the plant. In the third stage, a further random subsample of the second-stage sample could be frozen or otherwise preserved and sent to a central laboratory for studies not feasible at the plant, e.g., for testing in the National Residue Program. This final subsample should be subjected to morphologic and etiologic diagnoses to help build a data base against which future program activities can be measured. In each case, the rate of sampling and other details of the sampling process should be optimized on the basis of the best available information and the objectives of the inspection process. For example, the sampling rate might be periodically increased or decreased, depending on whether the results of previous samples and other information suggest an increase or decrease in the probability of encountering significant problems. The committee emphasizes, however, that less frequent but more intense examination of samples of chickens is not a substitute for maintaining a sanitary environment and that expert technical support and planning are required to ensure maximum benefits from such a program.

## Conclusions

- The committee concluded that current procedures for selecting poultry samples for analysis of chemical contaminants are limited and are not sufficiently flexible to meet the needs of an expanding industry. For example, at the current monitoring rate of 300 samples per year, some plants may not be sampled for extended periods. Thus, even major problems might not be addressed in a timely manner.
- The current FSIS objective of ensuring a 95% probability of finding a chemical contaminant in a minimum of 1% of slaughtered poultry does not take into account the possibility of isolated accidental contaminations.
- Technical problems include lack of random sampling, absence of a system for continuous collection of data, lack of alternatives to simple random sampling (e.g., different rates of sampling, stratified random sampling), absence of flexibility to increase sample fractions under specific circumstances (e.g., when many birds are septicemic, when evisceration equipment malfunctions, or when a sampled bird dies of causes other than slaughter), and the inability to ensure that statistical variances are calculated correctly for data from complex samples.

## Recommendations

- FSIS should begin to lay the groundwork for shifting resources from the organoleptic inspection of each broiler chicken to a more comprehensive program with statistically based sampling as one of its primary features. This should be undertaken as a first step in modifying the traditional bird-by-bird inspection system.
- FSIS should shift the focus of its residue program from the detection of contaminants in market-ready products to the prevention of their introduction at points as early as possible in the production process.
- Federal government support of broiler chicken inspection and related activities should be allocated primarily according to the degree that it can contribute to reductions in public health risk. The

current postmortem poultry inspection system does not address or meet this objective.

- A shift in the focus of FSIS programs toward the identification of contamination sources would necessarily extend the agency's interests to areas that are now the responsibility of other government (including state and local) agencies. FSIS should attempt to persuade such agencies that closer communication regarding poultry-associated health hazards is a matter of primary importance and that their effective control will require a concerted effort among responsible authorities.

The committee concluded, in agreement with the earlier Committee on the Scientific Basis of the Nation's Meat and Poultry Inspection Program, that FSIS should consider using risk-assessment techniques to manage and control poultry-associated hazards. Traditional poultry inspection techniques originated from the need to control diseases of poultry and to ensure a sanitary environment during slaughter. However, over the past few decades it has become apparent that the methods needed to detect and control poultry-associated public health threats are more complex than organoleptic inspection techniques alone can provide. The committee hopes that its risk model and its discussion of some potential applications will assist FSIS in controlling poultry-related health risks and developing a quality assurance program that will lead to nutritious and increasingly safe products.

## FOOD SAFETY AND INSPECTION SERVICE—9 CFR PARTS 303 AND 381

[Docket No. 87-0021]

### EXPERIMENTATION WITH PROCEDURES FOR DETERMINING THE INTENSITY OF INSPECTION COVERAGE IN PROCESSING ESTABLISHMENT; WAIVERS OF PROVISIONS OF THE REGULATIONS

Agency: Food Safety and Inspection Service [FSIS], USDA.

Action: Interim final rule with request for comments.

Summary: The Administrator, FSIS is initiating a period of experimentation as the first step in changing the Federal inspection system in establishments that prepare meat food products and/or process poultry products beyond slaughter and evisceration to a "discretionary inspection" (DI) system; that is, one in which the frequency and the manner of government inspection are based on considerations relevant to effective regulation of such products and protection of the public health and welfare, in accord with recent amendments to the Federal Meat Inspection Act (FMIA).

The object of this experimentation is to determine whether and, if so, to what extent the intensity of Federal inspection of meat and poultry products exceeds that which is necessary. During the period of experimentation, the level of Federal inspection may be reduced at some official establishment below the level required by current law. To the extent these reductions conflict with current provisions of the regulations, the Administrator plans to waive such provisions for the period of experimentation.

FSIS will consider relevant data, views, and arguments that are submitted during the next 30 days, and it will review the comments submitted and publish a final rule, indicating what, if any, changes it is making to this interim rule. In any event, during the period of experimentation, guidelines developed for use in making the determinations called for by these provisions may be modified if found to be infeasible or to improve effectiveness in assessing establishments or designing inspection coverage.

After this experimental step is completed, FSIS will propose new regulations that will fully implement its DI system. Interested members of the public will have an opportunity to comment on the design of the proposed DI system and specific proposed regulatory changes at that time.

Dates: Comments must be received on or before April 29, 1987. Effective March 30, 1987.

Addresses: Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments on the amendments to the poultry products inspection regulations to: Judith A. Segal, Director, Policy and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6525. (See also "Comments" under Supplementary Information.)

For further information contact: Judith A. Segal, (202) 447-6525.

Supplementary information: Executive Order 12201 and Effect on Small Entities.

The Administrator, FSIS, has made an initial determination that this interim final rule is not a major rule under Executive Order 12291. It is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries. Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Administrator also has determined that this action will not have a significant economic impact on a substantial number of small entities, in accordance with the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 et seq.)

The basis for these determinations includes the fact that waiver of certain provisions of the regulations and other aspects of experimentation described herein will affect only a limited number of processing establishments subject to inspection under the FMIA and/or the PPIA for a limited period. Any economic benefits which might indirectly result from inclusion in pilot testing (e.g., reduction in payments for inspection program employees working overtime) will be relatively small and affect only a portion of the establishments in which pilot tests are conducted, and selecting all establishments within a designated site that are found to satisfy the establishment performance criteria will further reduce the opportunity for any adverse effect on competition. Both the number of establishments selected and the length of time during which they are included in a pilot test of DI procedures will not extend beyond that which is needed to test the program variables under consideration in establishments with different characteristics. While at this time FSIS can only estimate the number of establishments that could be included in such pilot tests, since it cannot predict the results of evaluations of establishment performance, the Agency plans to select approximately 15 establishments initially and not more than about 200 in all, or approximately 3 percent of the federally inspected establishments that will be subject to the fully implemented DI system. Moveover, the Agency plans to conduct pilot testing in establishments with a variety of characteristics, such as size and volume of product manufactured, with the number of establishments increasing as the evaluation proceeds and with the conditions and methods of inspection coverage comparable in establishments as to which similar considerations apply. Finally, FSIS expects the duration of pilot tests in most establishments to vary between 3 and 6 months and that it will terminate the experimentation period within about 1 year. When pilot tests are ended, the Agency will return to pre-experimentation conditions and methods of inspection coverage until the DI system is fully implemented and, at that time, all plants (including those previously selected for pilot testing) will be evaluated.

## COMMENTS

Interested persons are invited to submit comments concerning this interim final rule. Such comments must be sent in duplicate to the FSIS Hearing Clerk. They should bear a reference to the docket number located in the heading of this document. Any person desiring an opportunity for oral presentation of views on the amendments to the poultry products inspection regulations must make such request to Dr. Segal so that arrangements may be made for such views to be presented. A transcript will be made of all views presented orally. All written and oral submissions made pursuant to this notice will be made available for public inspection between 9:00 a.m. and 4:00 p.m., Monday through Friday, in the Policy Office, Room 3168, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC.

## BACKGROUND

The Secretary of Agriculture's duties include implementation of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) to prevent the preparation or processing and distribution of meat, meat food products, and poultry products which are adulterated or misbranded or not properly marked, labeled, and packaged (21 U.S.C. 453 (g) and (h), 457, 458, 601 (m) and (n), 607, and 610). Responsibility for exercising the functions of the Secretary contained in the FMIA and PPIA has been delegated to the Administrator, FSIS (7 CFR 2.17(g) and 2.55(a)(2)). Among those functions are administration of the inspection requirements for meat food and poultry products and sanitation practices in establishments preparing or processing such products for commerce or otherwise subject to inspection under the FMIA or PPIA (21 U.S.C. 455, 456, 605, 606, and 608) and the issuance of rules and regulations executing provisions of these Acts (21 U.S.C. 463(b) and 621).

The Congress of the United States recently amended the inspection requirements for meat food products in section 6 of the FMIA (21 U.S.C. 606). Pursuant to the Processed Products Inspection Improvement Act of 1986, Title IV of the Futures Trading Act of 1986 (FTA) (Pub. L. 99-641), rather than requiring the Secretary to cause inspectors appointed for that purpose to make "an examination and inspection of all meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment," such examination and inspection is to be:

Conducted with such frequency and in such manner as the Secretary considers necessary, as provided in rules and regulations issued by the Secretary, taking into account such factors as the Secretary considers to be appropriate . . . [FTA, section 403(a)]. Three such factors are specified in the statute: the nature and frequency of processing operations at an establishment, the adequacy and reliability of the processing controls and sanitary procedures at an establishment, and the history of compliance with inspection requirements in effect under the FMIA by the operator of an establishment or anyone responsibly connected with the business (i.e., any partner, officer, director, holder, or owner of 10 per centum or more of its voting stock or employee in a managerial or executive capacity) that operates that establishment.

By so amending the FMIA, Congress has authorized the Department, for a 6-year period,* to base the frequency with which and the manner in which meat food products are examined and inspected by program employees on considerations relevant to the effective regulation of meat food products and the protection of the public health and welfare. The legislation also reflects Congressional recognition that full implementation of a new system of government inspection of post-slaughter processing operations will take time: Title IV and the amendments made thereby became effective on the date of enactment (November 10, 1986), except that sections 6, 9, and 21 of the FMIA (21 U.S.C. 606, 609, and 621), as in effect immediately before that date, "apply with respect to establishments until the Secretary . . . first issues rules and regulations to implement the amendments made by section 403(a)" (FTA, section 408). This rulemaking initiates implementation of those amendments; however, as indicated below, it is only the first step in process intended to assure an orderly transition to the "discretionary inspection" (DI) system mandated by the recent amendments to the FMIA.

This rulemaking also initiates changes that will result in the institution of a DI system for operations processing products from poultry carcasses that have passed post mortem inspection. The PPIA authorizes the Department to vary the frequency and the manner of government inspection in establishments conducting post-slaughter and evisceration processing of poultry products based on effective regulation and public protection considerations. In particular, section 6(b) (21 U.S.C. 455(b)) requires the Secretary to cause government inspectors to make "post mortem inspection of the carcass of each bird processed, and at any time such quarantine, segregation and reinspection as he deems necessary of poultry and poultry products capable of use as human food in each official establishment processing such poultry or poultry products for commerce or otherwise subject to inspection. . . ."

The Administrator of FSIS now believes that the frequency and manner of reinspection by program employees of poultry products made from poultry previously slaughtered and eviscerated and found to be not adulterated that is "deem[ed] necessary" should be varied, taking into account the same factors as those considered appropriate under the amended FMIA. To date, however, the rules and regulations and other aspects of inspection coverage have been basically comparable to those prescribed pursuant to the narrower pre-amendment authority in the FMIA. Therefore, exercising the authority to implement at DI system of inspection presents orderly transition concerns under the PPIA as well.

The Department supported the recent amendments to the FMIA, as well as administering the PPIA to institute the same approach to the inspection of comparable processing operations, because it believes that the efficiency and effectiveness of the meat and poultry inspection program in utilizing available resources to maximize the level of compliance with regulatory requirements, and thus achievement of the purposes of the FMIA and PPIA (see 21 U.S.C. 451 and 602 and FTA, section 402), can be improved by adjusting the frequency and the manner of government inspection. However, before modifying the inspection system as a whole and fully implementing a DI system, rules regarding the frequency and the manner of government inspection should be tested in order to assess their adequacy and appropriateness and thereby protect the integrity and effectiveness of the inspection program.

In particular, although it appears that the intensity of inspection coverage in some processing establishments exceeds that which should be considered or deemed necessary under the FMIA, as amended (21 U.S.C. 606), or the PPIA (21 U.S.C. 455), the Administrator of FSIS has concluded that procedures for determining whether and, if so, to what extent this is the case and for designing the conditions and methods of inspection coverage in such establishments should be tested in a small-scale, experimental setting in order to obtain sufficient information on which to base final amendments to various portions of the Federal meat inspection and the poultry products inspection regulations. Therefore, the first rules and regulations to be issued in implementing the amendments made by section 403(a) of the FTA to section 6 of the FMIA (21 U.S.C. 606) and instituting a comparable DI system under the PPIA consist of provisions for conducting pilot tests of such DI system in establishments subject to inspection under the FMIA (9 CFR 303.2) or the PPIA (9 CFR 381.3 (c) through (e)).

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* Not later than 6 years after the date of enactment, Congress is to evaluate the operation and effects of the amendments made by section 403 of the FTA for the purpose of determining whether to extend or modify the operation of such amendments and enact such legislation as may be necessary to efficiently and effectively carry out the FMIA (FTA, section 407).

These provisions in the initial regulations include the factors that appear appropriate for consideration in assessing the performance of an establishment to determine whether the intensity of inspection coverage can be reduced while continuing to assure effective regulation of products and protection of the public health and welfare (9 CFR 303.2(b)(1) and 381.3(d)(1)), as well as the factors that appear appropriate for consideration in assessing the characteristics of an establishment on which to base the level of Federal inspection and other conditions and methods of government inspection during such experimentation (9 CFR 303.2(b)(2) and 381.3(d)(2)). For purposes of both meat food product and poultry product inspection, criteria are specified to take into account the factors included in section 6(a)(2) of the amended FMIA (21 U.S.C. 606(a)(2); section 403(a) of the FTA): nature and frequency of processing operations (9 CFR 303.2(b)(2) and 381.3(d)(2)), adequacy and reliability of processing controls and sanitary procedures (9 CFR 303.2(b)(1) (ii) and (iii) and 381.3(d)(1) (ii) and (iii)), and history of compliance with inspection requirements (9 CFR 303.2(b)(1)(i) and 381.3(d)(1)(i)).

Thus, the experimentation period is expected to provide information on, among other things, the adequacy of such criteria for evaluating the performance of all establishments conducting post-slaughter preparation of meat food products and/or post-slaughter and evisceration processing of poultry products. FSIS will use the information obtained to decide whether the criteria set forth in these provisions should be further refined or supplemented before their application to all such processing establishments is proposed as part of the rulemaking in which a proposal that would amend the Federal meat inspection regulations and the poultry products inspection regulations to include the new and revised provisions needed for full implementation of a DI system will be considered. FSIS currently anticipates completion of that rulemaking in early 1988. The final rule so amending the regulations also will rescind the provisions for experimentation with DI procedures set forth herein, unless such experimentation period has been terminated earlier.

FSIS plans to select establishments for inclusion in a pilot test from those the Administrator identifies for review (9 CFR 303.2(a) and 381.3(c)). Initially, a small group of establishments will be so identified, and such establishments will be ones in which there is reason to believe that the current intensity of inspection coverage exceeds that which should be considered or deemed necessary under the FMIA or PPIA. As testing proceeds, the Administrator intends to identify additional establishments to the extent appropriate in view of findings to date. FSIS expects that the number of establishments selected for pilot tests may increase from approximately 15 to as many as 200 as groups of establishments in new, limited geographical sites are phased in over the course of the experimentation period. Such sites will be designated on the basis of their suitability for generating information to satisfy evaluation needs. The length of time during which establishments are included in a pilot test will vary depending on the testing involved and is expected to be from 3 to 6 months in most establishments.

The performance of establishments so identified will be evaluated, and such an establishment may be selected for inclusion in the pilot testing of procedures for reducing the intensity of inspection coverage if, and only if, this evaluation (1) reveals, in records compiled no earlier than 10 years before, no documented instances of substantial and recent noncompliance with applicable regulatory requirements and (2) evidences the competence and control procedures needed to assure and monitor compliance with applicable regulatory requirements (9 CFR 303.2(c)(1) and 381.3(e)(1)). The "sustantial and recent" criterion is intended to assure that in assessing compliance history (9 CFR 303.2(b)(1)(i) and 381.3(d)(1)(i)), both the nature and frequency of noncompliance with process, environment, and/or product requirements are taken into account for an appropriate length of time. Thus, noncompliance is to be regarded as substantial when, for example, it involves the preparation of adulterated product that could pose a serious public health threat if distributed to consumers or recurring failures that could be considered indicative of a lack of regard for the public health or welfare; and, within the 10-year time limit on record documentation, the more substantial the violation, the longer it is to be regarded as sufficiently recent for consideration. The second performance evaluation criterion reflects the assessment of both management knowledge of appropriate manufacturing practices and applicable regulatory requirements, demonstrated ability to apply that knowledge in a timely and consistent manner, and commitment to correcting deficiencies noted by inspection program employees and otherwise assuring compliance with applicable regulatory requirements (9 CFR 303.2(b)(1)(ii) and 381.3(d)(1)(ii)) and the procedures used to control the production process, environment, and resulting product in order to assure and monitor compliance with requirements of the FMIA or PPIA and rules and regulations thereunder (9 CFR 303.2(b)(1)(iii) and

381.3(d)(1)(iii)). FSIS believes that by applying these criteria, its performance evaluation will achieve the objective of only including an establishment in pilot testing if there are adequate indications that the probability of future noncompliance at such establishment is low.

In any establishment included in such a pilot test, during experimentation the conditions and methods of inspection coverage of operations other than the slaughter of livestock or the slaughter and evisceration of poultry, including the frequency of government inspection, are to be determined by the inspection program based on (1) an evaluation of the characteristics of the particular establishment, (2) the significance of potential health consequences of noncompliance, and (3) the availability of meat and poultry inspection program employees (referred to as "Program" and "Inspection Service" employees in the Federal meat inspection and the poultry products inspection regulations, respectively) (9 CFR 303.2(c)(2) and 381.3(e)(2)). Drawing upon its experience in regulating a broad range of establishments with differing characteristics and allocating inspection program resources, FSIS has developed tentative guidelines for use in making these determinations during pilot testing. Thus, for example, in assessing processing operation complexity (9 CFR 303.2(b)(2)(i) and 381.3(d)(2)(i)). FSIS will be categorizing operations as involving product preparation or processing that is "simple", "medium", or "complex" by applying Directive 1030.2 (Documentation of Processing and Combination Assignments, 4/22/85, which is available for public inspection and copying in the Policy Office (see "Addresses")). FSIS also plans to utilize a three category approach in assessing certain other establishment characteristics (9 CFR 303.2(b)(2)(iii), (iv), and (vi) and 381.3(d)(2)(iii), (iv), and (vi)): production volume (highest total product volume during any quarter within the preceding year as less than 60,000; 60,000 to 1,000,000; or more than 1,000,000 pounds), establishments size (less than 12,000; 12,000 to 80,000; or more than 80,000 square feet), and the scope of any livestock slaughter or poultry slaughter and evisceration operations (none, part time, or full time) also being conducted (but to which the DI system will not apply) at an establishment which makes meat food and/or poultry products that are processed further (i.e., a "combination" establishment).

The Federal meat inspection regulations (9 CFR Chapter III, Subchapter A) and the poultry products inspection regulations (9 CFR Part 381) will continue to apply to establishments in which FSIS is pilot testing except to the extent that the frequency of Federal inspection or other conditions and methods of inspection coverage determined to be appropriate for the period of experimentation are identified as conflicting with provisions of the regulations. To that extent, the Administrator plans to waive such provisions for the period of experimentation (9 CFR 303.2(c)(2) and 381.3(e)(2)). Such waivers will permit the testing of new procedures that are expected to facilitate definite improvements and will reflect a determination that prescribing alternative conditions and methods of inspection coverage is not contrary to statutory purposes or provisions. They are, therefore, consistent with Agency policy as to when the temporary suspension of provisions of the regulations comports with its responsibilities in administering the FMIA.

The Administrator believes that the Federal meat inspection regulations should address the waiver for limited periods of provisions of those regulations to provide for situations in which alternative courses of action are appropriate and do not conflict with either the purposes or the provisions of the statute. In particular, the Administrator has determined that despite potential or actual conflicts with provisions of the regulations, such alternative courses of action should be pursued in administering the FMIA in order to permit: (1) Appropriate and necessary action in the event of a public health emergency and (2) experimentation so that new procedures, equipment, and/or processing techniques may be tested to facilitate definite improvements. In both of these classes of cases, the waiver decision reflects a judgment that certain provisions of the regulations as applied in specific situations should be temporarily suspended in order to achieve the purposes of the FMIA and that the alternative course of action pursued during such a limited period is not inconsistent with FMIA provisions. Among other things, FSIS may, as in the instant case, need to obtain additional information before it can assess the nature or scope of any amendments to be proposed or can provide sufficient description of the subjects and issues involved to give interested persons a meaningful opportunity to participate in rulemaking.

The inclusion of such a rule in the Federal meat inspection regulations (9 CFR 303.1(g)) specifies Agency policy for carrying out its statutory responsibilities and conducting the meat and poultry inspection program pursuant to the FMIA and PPIA. The poultry products inspections regulations already include such a rule (9 CFR 381.3(b)). However, the emergency situations provided for in the poultry products inspection regulations are limited to those that are "national" in scope. Since such waivers also may better enable FSIS to take appropriate and necessary action in response to an emergency in a smaller geographic area and the focus of concern here is assuring adequate public health protection, the Administrator has determined that the words "public health" should be substituted for "national" in § 381.3(b) of the regulations (9 CFR 381.3(b)).

These amendments to the Federal meat inspection regulations and the poultry products inspection regulations include rules and statements that are being issued to advise the public of the Agency's interpretation of recent amendments to the FMIA and provisions of the PPIA and to advise the public of the Agency's policy and procedures for implementing those amendments and initiating changes to institute a DI system for processing operations under the FMIA and PPIA. Notice and public procedure thereon are not required under the Administrative Procedure Act (APA) as to such rules and statements (5 U.S.C. 553(b)(A); see also 5 U.S.C. 553(d)(2)).

In addition, FSIS has concluded that in order to execute its functions in a due and timely manner while avoiding serious dislocation in the inspection program, it should begin pilot testing in the near future. Congress has directed the Department to take action to improve the efficiency and effectiveness of the inspection program in utilizing available resources in its coverage of processing operations so that, among other things, it is in a better position to respond to budgetary constraints and industry growth and development. Thus FSIS must move as quickly as possible to institutue a DI system. Yet, at the same time, it must protect the integrity and effectiveness of the inspection program in protecting the public health and welfare by assuring an orderly transition to the new system. It is the Agency's view that, given the scope and complexity of the issues and program variables involved, this can be accomplished only through a multi-stage process, with the first implementation action consisting of an experimentation period, and FSIS must act now if full implementation and the benefits anticipated by Congress are to be achieved within a reasonable time.

This approach is consistent with the Agency's policy of testing new procedures and other possible improvements affecting the inspection program in order to assure that they are feasible and will not adversely affect protection of the public health and welfare. Moreover, while the conduct of persons, firms, and corporations regulated as operators of those federally inspected establishments selected for pilot testing may be affected, any effects will be of limited scope and duration, and restrictions may be relieved rather than imposed.

For these reasons, the Agency finds that giving advance notice and public procedure thereon beyond what is provided herein is impracticable and contrary to the public interest. Therefore, there is good cause, in accordance with the APA (5 U.S.C. 553(b)(B) and (d) (1) and (3)), for publishing an interim final rule with a request for comments which will become effective before the publication of a further notice.

## Interim Final Rule

### LIST OF SUBJECTS

*9 CFR Part 303.*—Meat inspection.

*9 CFR Part 381.*—Poultry products inspection.

On the basis of the foregoing, the Federal meat inspection regulations (Part 303) and the poultry products inspection regulations (Part 381) are amended as follows:

1. The authority citation for Part 303 is added to read as follows and the authority citation following § 303.1 is removed:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438 (21 U.S.C. 71 *et seq.*, 601 *et seq.*, Pub. L. 99-641, Title IV, 100 Stat. 3556, 3567-72, 33 U.S.C. 406-466k); Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*).

2. Section 303.1(g) is revised to read as follows:

### § 303.1 Exemptions.

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(g) The Administrator may in specific classes of cases waive for limited periods any provisions of the regulations in this subchapter in order to permit appropriate and necessary action in the event of a public health emergency or to permit experimentation so that new procedures, equipment, and/or processing techniques may be tested to facilitate definite improvements: *Provided,* That such waivers of the provisions of such regulations are not in conflict with the purposes or provisions of the Act.

3. Part 303 is further amended by adding a new § 303.2 to read as follows:

### § 303.2 Experimentation: Intensity of Inspection coverage.

(a) Pursuant to the Processed Products Inspection Improvement Act of 1986, Title IV of the Futures Trading Act of 1986 (Pub. L. 99-641), in establishments preparing products at which inspection under the Act and regulations is required, the frequency with which and the manner in which meat food products made from livestock previously slaughtered in official establishments are examined and inspected by Program employees is to be based on considerations relevant to effective regulation of meat food products and protection of the health and welfare of consumers. In order to test procedures for use in making such determinations, and, in particular, for determining whether and, if so, to what extent the intensity of inspection coverage exceeds that which should be considered necessary pursuant to section 6 of the Act, as amended by section 403(a) of the Futures Trading Act of 1986, the Administrator is initiating experimentation of a new system of inspection for reviewing the performance of establishments and for designing the supervision and other conditions and methods of inspection coverage. For the period of such experimentation, the Administrator shall identify establishments for review, and the frequency and the manner of inspection by Program employees shall be determined on the basis of the results of those reviews and be otherwise in accordance with this section.

(b) The determinations referred to in paragraph (a) of this section shall be made by the Program and shall reflect evaluations of the performance and the characteristics of such establishments.

(1) In assessing the performance of an establishment, the following factors are appropriate for consideration:

(i) The history of compliance with applicable regulatory requirements by the person conducting operations at such establishment or by anyone responsibly connected with the business conducting operations at such establishment, as "responsibly connected" is defined in section 401(g) of the Act.

(ii) The competence of the person conducting operations at such establishment, as indicated by:

(A) Knowledge of appropriate manufacturing practices and applicable regulatory requirements;

(B) Demonstrated ability to apply such knowledge in a timely and consistent manner, and

(C) Commitment to correcting deficiencies noted by Program employees and otherwise assuring compliance with applicable regulatory requirements, and

(iii) The procedures used in such establishment to control the production process, environment, and resulting product in order to assure and monitor compliance with the requirements of the Act and the rules and regulations promulgated thereunder.

(2) In assessing the characteristics of an establishment, the following factors are appropriate for consideration:

(i) The complexity of the processing operation(s) conducted at such establishment,

(ii) The frequency with which each such operation is conducted at such establishment,

(iii) The volume of product resulting from each such operation at such establishment,

(iv) Whether and to what extent slaughter operations also are conducted at such establishment,

(v) What, if any, food products not regulated under this Act or the Poultry Products Inspection Act also are prepared at such establishment, and

(vi) The size of such establishement.

(c)(1) For the period of experimentation described in paragraph (a) of this section, the frequency of inspection of Program employees of operations other than slaughter may be reduced in an establishment in which the procedures referred to therein are being tested if and only if the evaluation of the performance of such establishment described in paragraph (b)(1) of this section indicates that there are:

(i) No instances, documented in records compiled no earlier than 10 years before, of substantial and recent noncompliance with applicable regulatory requirements (taking into account both the nature and frequency of any such noncompliance), and

(ii) The competence and control procedures needed to assure and monitor compliance with applicable regulatory requirements.

(2)(i) The frequency of Federal inspection and other conditions and methods of inspection coverage in any establishment in which the Federal inspection is reduced shall be based on:

(A) The evaluation of characteristics of such establishment described in paragraph (b)(2) of this section,[2]

(B) The significance of potential public health consequences of noncompliance, and

(C) The availability of Program employees.

(ii) To the extent that such frequency of inspection or other conditions and methods of inspection coverage are identified as conflicting with provisions of the regulations in this subchapter, the Administrator will waive such provisions for the period of experimentation, in accordance with § 503.1(g) of this subchapter.

### PART 381—[AMENDED]

4. The authority citation for Part 381 continues to read as follows:

Authority: 71 Stat. 441, 82 Stat. 791, as amended, 21 U.S.C. 451 *et seq.*; 76 Stat. 663 (7 U.S.C. 450 *et seq.*), unless otherwise noted.

5. Section 381.3(b) is amended by removing the word "national" and inserting, in its place, the words "public health".

6. Section 381.3 is further amended by adding new paragraphs (c) through (e) to read as follows:

**§ 381.3 Administration.**

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(c) Pursuant to section 6 of the Act, the Administrator believes that, in establishments processing poultry products at which inspection under the Act and regulations is required, the frequency with which and the manner in which poultry products made from poultry previously slaughtered and eviscerated in official establishments are reinspected by Inspection Service employees should be based on considerations relevant to effective regulation of poultry products and protection of the health and welfare of consumers. In order to test procedures for use in making such determinations and, in particular, for determining whether and, if so, to what extent the intensity of inspection coverage exceeds that which should be deemed necessary pursuant to section 6 of the Act, the Administrator is initiating experimentation of a new system of inspection for reviewing the performance of establishments and for designing the supervision and other conditions and methods of inspection coverage. For the period of such experimentation, the Administrator shall identify establishments for review, and the frequency and the manner of inspection by Inspection Service employees shall be determined on the basis of the results of those reviews and be otherwise in accordance with this section.

(d) The determinations referred to in paragraph (c) of this section shall be made by the Inspection Service and shall reflect evaluations of the performance and the characteristics of such establishments.

(1) In assessing the performance of an establishment, the following factors are appropriate for consideration:

(i) The history of compliance will applicable regulatory requirements by the person operating such establishments or by anyone responsibly connected with the business operating such establishment, as "responsibly connected" is defined in section 18(a) of the Act,

(ii) The competence of the person operating such establishment, as indicated by:

(A) Knowledge of appropriate manufacturing practices and applicable regulatory requirements,

(B) demonstrated ability to apply such knowledge in a timely and consistent manner, and

(C) Commitment to correcting deficiencies noted by Inspection Service employees and otherwise assuring compliance with applicable regulatory requirements, and

(iii) The procedures used in such establishment to control the production process, environment, and resulting product in order to assure and monitor compliance with the requirements of the Act and the rules and regulations promulgated thereunder.

(2) In assessing the characteristics of an establishment, the following factors are appropriate for consideration.

(i) The complexity of the processing operation(s) conducted at such establishment,

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[2] These evaluations will be based upon guidelines developed by FSIS and the complexity categorization in FSIS Directive 1030.2 (Documentation of Processing and Combination Assignments, 4/22/85). The guidelines and Directive will be available for public inspection and copying in the Policy Office, Room 3168, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC.

(ii) The frequency with which each such operation is conducted at such establishment,

(iii) The volume of product resulting from each such operation at such establishment,

(iv) Whether and to what extent slaughter and evisceration operations also are conducted at such establishment,

(v) What, if any, food products not regulated under this Act or the Federal Meat Inspection Act also are processed at such establishment, and

(vi) The size of such establishment.

(e)(1) For the period of experimentation described in paragraph (c) of this section, the frequency of inspection by Inspection Service employees of operations other than slaughter and evisceration may be reduced in an establishment in which the procedures referred to therein are being tested if and only if the evaluation of the performance of such establishment described in paragraph (d)(1) indicates that there are:

(i) No instances, documented in records complied no earlier than 10 years before, of substantial and recent noncompliance with applicable regulatory requirements (taking into account both the nature and frequency of any such noncompliance), and

(ii) The competence and control procedures needed to assure and monitor compliance with applicable regulatory requirements.

(2)(i) The frequency of Federal inspection and other conditions and methods of inspection coverage in any establishment in which the Federal inspection is reduced shall be based on;

(A) The evaluation of the characteristics of such establishment described in paragraph (d)(2) of this section.

(B) The significance of potential public health consequences of noncompliance, and

(C) The availability of Inspection Service employees;

(ii) To the extent that frequency of inspection or other conditions and methods of inspection coverage are identified as conflicting with provisions of the regulations in this part, the Administrator will waive such provisions for the period of experimentation, in accordance with paragraph (b) of this section.

Done at Washington, DC, on March 25, 1987.

DONALD L. HOUSTON,
*Administrator, Food Safety and Inspection Service.*

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United States
Department of
Agriculture

Office of
Inspector
General

Washington, D C
20250

Date: September 26, 1986

Reply to
Attn. of: 38607-1-At

Subject: Food Safety and Inspection Service
Meat and Poultry Inspection Program

To: Donald L. Houston
Administrator
Food Safety and Inspection Service

This report presents the results of our audit of the Meat and Poultry Inspection (MPI) Program administered by your agency. The objective of the audit was to evaluate Food Safety and Inspection Service's (FSIS) management of the MPI Program. During the audit, we visited 132 federally inspected meat and poultry plants and performed work at the FSIS national office, all 5 regional offices, and 2 of the 27 area offices.

We found that generally FSIS had been effective in fulfilling its mission of ensuring that the nation's meat and poultry supply was wholesome and unadulterated. However, we did identify areas of concern which need attention by FSIS management, including two areas which should be addressed through legislative changes. We believe that FSIS needs additional authority to impose appropriate and meaningful "middle-ground" sanctions in instances where educational efforts fail to bring about voluntary compliance but violations are not severe enough to justify criminal prosecution or judicial seizure. Additionally, the legislative requirement for continuous inspection in all federally inspected meat and poultry plants, regardless of the degree of risk present, has limited FSIS's ability to maximize the effectiveness of inspection efforts. We also identified weaknesses in internal administrative controls relating to the Domestic Residue Monitoring Program, labeling, and plant inspection activities.

On June 25, 1986, we discussed the audit results with you and members of your staff. Based on additional discussions held with staff members regarding the findings reported, we revised the draft report in some areas. In your September 5, 1986 written response to the draft report (attached as Exhibit B), you indicated general agreement with our findings and recommendations and reported that you intend to include most of our recommendations in your short- and long-range planning. Portions of your comments have been incorporated into relevant sections of the audit report. We closed Recommendation No. 10 based on your response.

In your response, you indicated that the recommendations concerning administrative sanctions should be directed to policy officials of the Department for their consideration. Although we are not changing the level of our recommendations, we are transmitting a copy of our final report, including your comments, to the Assistant Secretary for Marketing and Inspection Services, who has been briefed on the results of the audit and is familiar with our recommendations.

Please furnish a reply as to the corrective action taken or planned on the remaining findings and Recommendation Nos. 1 through 9 by December 1, 1986. Please note that P.L. 96-304, the Supplemental Appropriations and Rescission Act of 1980, and OMB Circular A-50 require that all audit findings and recommendations be resolved within a maximum of 6 months from the date of report issuance. Specific criteria and procedures for audit resolution and closure are set forth in Departmental Regulation 1720-1.

We appreciate the courtesies and cooperation given us by FSIS personnel during the audit.

D— E. Adkisson
DONN E ADKISSON
Assistant Inspector General
for Audit

Attachment

## I - SUMMARY OF AUDIT RESULTS

This report presents the results of our audit of the Meat and Poultry Inspection (MPI) Program which is administered by the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA). The objective of the audit was to evaluate FSIS's management of the MPI Program. During the audit, we visited 132 federally inspected meat and poultry plants and performed work at the FSIS national office, all 5 regional offices, and 2 of the 27 area offices.

We found that, generally, FSIS had been effective in fulfilling its mission of assuring that the Nation's meat and poultry supply was wholesome and unadulterated. However, we did identify areas of concern which need attention by FSIS management.

FSIS did not have the flexibility to utilize its resources in ways that maximize the effectiveness of inspection efforts. Existing legislation required FSIS to provide continuous inspection in all federally inspected meat and poultry plants, regardless of FSIS's assessment of the degree of risk associated with the establishment or its operations. As a result, the agency could not effectively use advanced technologies or other innovative approaches that could streamline the inspection process while continuing to provide assurance that the Nation's meat and poultry supply is wholesome and safe. We believe that with a risk-based, statistical approach to the inspection process, FSIS could maintain or increase the current level of consumer protection and be in a better position to effectively respond to potential budget reductions.

Without authority to impose appropriate and meaningful sanctions against violators, except for the more extreme cases, FSIS was impeded in its ability to enforce compliance by the plants under inspection. In many instances, the sanctions available to FSIS were either too mild (e.g., educational letters) or too severe (e.g., withdrawal of inspection for violation of MPI regulations) to provide an effective and appropriate tool to enforce compliance. FSIS lacked the authority to impose "middle-ground" sanctions in instances where educational efforts had failed to bring about voluntary compliance but violations were not severe enough to justify criminal prosecution or judicial seizure. As a result, a few plants maintained only minimal levels of sanitation; many producers repeatedly marketed animals containing illegal levels of drug residues; and some manufacturers did not provide full and accurate distribution information to aid in recalls of adulterated products.

Improper statistical techniques and inadequate control over the sampling process reduced the accuracy and effectiveness of FSIS's Domestic Residue Monitoring Program in detecting and quantifying the incidence of hazardous residues in the Nation's meat and poultry supply. FSIS did not have adequate controls over data collection and analysis to ensure that residue monitoring data was completed and analyzed in a timely manner. As a result, FSIS and other agencies dependent on residue monitoring data may not have had vital information needed to react promptly and appropriately to patterns of residue violations.

FSIS needed better coordination with other Federal agencies to ensure that adequate evidence was accumulated to support successful prosecution of producers marketing animals containing illegal levels of drug residues. In January 1985, USDA, Food and Drug Administration (FDA), and Environmental Protection Agency (EPA) entered into a Memorandum of Understanding (MOU) outlining the responsibilities of each agency in the control of hazardous residues in the food supply. Although FSIS contacted the other agencies involved and had attempted to arrange an initial meeting, this MOU had not been implemented. There are economic incentives for producers to use certain drugs in ways that may leave hazardous levels of drugs in the meat at slaughter, and, unless strong enforcement action is taken, it is unlikely that violators will stop using drugs improperly.

FSIS's recall procedures did not contain provisions to ensure that the public was notified about recalls of hazardous products, that consignees were notified of product recalls, or that appropriate followup actions were taken when discrepancies were identified in distribution information. Our review of eight Class I recalls disclosed that the required public notification had not been issued in four cases. Additionally, FSIS could not ensure that consignees were notified of product recalls and that all recalled product was removed from retail channels. While we did not identify any instances where recalled products were consumed as a result of these procedural weaknesses, FSIS should take further steps to minimize the likelihood that adulterated products will remain in retail channels.

FSIS did not have sufficient, documented evaluation procedures to ensure that the decisions reached in label reviews accurately expressed agency policy. As a result, some of the labeling decisions reached produced inconsistent treatment of similar issues. During the audit, we issued two "Fast Reports" to inform FSIS officials of significant problems identified concerning the processing procedures and labeling for "charbroiled" beef products. Subsequently, FSIS issued Notice 92-85 which established processing standards and labeling policies for these products. The actions outlined in the Notice should be adequate to correct the conditions identified in the Fast Reports.

Our review of the 132 plants in our sample disclosed inconsistencies in the application and enforcement of MPI regulations and policies. During our plant visits, we identified problems with the maintenance of structural fixtures, sanitation of equipment, and control of condensation (water). In over half the plants reviewed, inspectors had not exercised adequate control over the use and storage of chemicals and pesticides. In over 40 percent of the plants, we identified one or more instances where condemned and inedible products had not been controlled to ensure that they would not reenter the food chain. We found that the number of deficiencies was much greater in large poultry slaughter plants than in the large red meat slaughter plants in our sample. The incidence of sanitation deficiencies was relatively low in small processing plants with simple operations.

Our audit disclosed material weaknesses in internal administrative controls relating to the domestic residue monitoring program, labeling, and plant inspection activities. These weaknesses and their effects on the FSIS MPI Program are more fully described in the Details of Audit Findings section of this report.

FSIS's response to the draft report was positive and indicated general agreement with our findings and recommendations. However, their response indicated that our recommendations regarding administrative sanctions should be directed to policy officials of the Department for their consideration. Although we did not change the level of our recommendations, we are transmitting a copy of our final report, including FSIS's comments, to the Assistant Secretary for Marketing and Inspection Services, who has been briefed on the results of the audit and is familiar with our recommendations.

## II - RECOMMENDATIONS TO THE ADMINISTRATOR, FSIS

1. Reevaluate current methods of inspection and consider new approaches and techniques which provide consumer protection more efficiently and effectively. Among the options FSIS should consider are the following (see Detail 1):

   a. Continue to pursue legislative changes to eliminate the continuous inspection provisions of the Federal Meat Inspection Act and Poultry Products Inspection Act.

   b. Implementation of a statistically valid, compliance-based inspection system designed to provide assurance of consumer protection at a specified confidence level. This would establish a baseline level of inspection which would be funded by the Federal Government.

   c. Implementation of a fee system to recover the costs of increased levels of inspection from those establishments requiring additional inspection coverage above the baseline level because of material noncompliance with MPI regulations.

   d. Increased use of objective laboratory analysis to assess the degree of the plants' compliance with established criteria for sanitation, processing, and product standards. Analysis of statistically selected samples can replace much of the current, more labor-intensive method of direct inspector observation.

2. Request legislative authority to impose administrative sanctions against establishments and producers who violate MPI laws and regulations. The sanctions should include a sliding scale of fines where each recurrence of violations results in harsher financial penalties. (See Detail 2.)

3. Implement the following internal administrative controls to improve the Domestic Residue Monitoring Program (see Detail 3):

   a. Analyze residue monitoring data promptly. Develop a standardized periodic report that computes confidence intervals for each residue/species pair and flags problem areas.

   b. Cross-train employees so that more than one person can update the Microbiological and Residue Computer Information System (MARCIS) database.

   c. Document analyses of residue monitoring data and retain conclusions for review and trend analysis.

   d. Develop controls to ensure that residue monitoring samples requested are actually taken or otherwise accounted for. Provide monthly exception listings to area offices to allow prompt followup when samples are not taken.

   e. Use information obtained in the followup on nonresponse samples to update the sampling frame.

f. Notify the residue monitoring staff when grants of inspection are issued so that the sampling frame can be updated to include new plants.

g. Consider seasonal variations in slaughter in the sampling plan to allow each animal an equal chance of selection.

h. Perform a periodic reconciliation of samples analyzed at the laboratories to sample data entered into MARCIS. Include controls to ensure that all residue monitoring results are communicated to the national office as part of the quality control (QC) procedures currently being developed.

4. Take the following actions to improve the development of data needed to support the prosecution of violators of drug and residue laws (see Detail 4):

   a. Work closely with FDA and EPA to coordinate responses to specific residue contamination incidents and to develop a unified approach to monitoring, surveillance, and enforcement.

   b. Develop a standard form for the Certified Calf Program. This form should reference U.S.C., Title 18, Subsection 1001, and warn producers of the consequences of false statements.

   c. Coordinate with the Packers and Stockyards Administration to ensure that adequate consideration is given to provisions that will allow for the successful prosecution of those who intentionally file false certifications.

5. Issue press releases or other public notifications in all Class I recalls. (See Detail 5.)

6. Supplement the Recall Strategy outlined in FSIS Directive 8080.1 with provisions to (see Detail 5):

   a. Compare distribution information provided by the recalling firm with data developed during FSIS's effectiveness checks.

   b. Obtain explanations of any discrepancies identified and initiate prompt actions to seize products in instances where firms cannot provide reasonable assurance that adulterated products have been removed from commerce.

   c. Provide guidelines to recalling firms detailing their responsibilities for notification of consignees.

7. Establish a formal, documented system of reviews or other internal administrative control procedures to ensure consistency and accuracy of labeling decisions. When errors are discovered, expand the procedures to determine if similar problems exist with other labels. (See Detail 6.)

8. Continue to encourage establishments to use the "Standards and Labeling Policy Book" as a guide in preparing applications for label approval. (See Detail 6.)

9. Ensure consistent application of MPI policies and regulations by (see Detail 7):

   a. Implementing a tracking system to provide assurance that all deficiencies identified by FSIS personnel are corrected in a timely manner.

   b. Implementing internal administrative controls to ensure that inspectors are enforcing the provisions of MPI Bulletin 83-13 and delaying operations when poultry plants do not maintain acceptable levels of preoperative sanitation.

   c. Instructing inspectors to make a periodic, documented review of all chemicals, pesticides, and lubricants used in plants to ensure that they are approved for use in a food processing environment. Require plant management to keep a current list of chemicals. Have inspectors make spot checks to determine the completeness of the lists.

   d. Require plant management to document pesticides used by both professional exterminators and plant personnel. Require inspectors to evaluate their suitability by checking the "List of Proprietary Substances and Nonfood Compounds Authorized for Use under USDA Inspection and Grading Programs." Keep a written record of this review.

10. Consider implementation of risk-based intermittent inspection in small processing plants with simple operations in conjunction with the reevaluation of current methods of inspection. (See Details 1 and 7.)

JAN 15 1987

Robert E. Miller
Acting Assistant Inspector General for Audit

Donald L. Houston
Administrator

Status Report of Actions Taken on Recommendations: Audit of Food Safety and Inspection Service Meat and Poultry Inspection Program, #38607-1-At

We are pleased to provide you with a progress report of actions taken in response to the subject audit report. Some of the initiatives are still in the process of being implemented. Accordingly, we will provide you with the current status of the recommendations, including an updated projected completion date, if appropriate. We have organized this update around the recommendations appearing in the audit report.

Recommendation 1 calls for a reevaluation of current methods of inspection and consideration of new approaches which provide consumer protection more efficiently and effectively.

Recommendation 1a refers to FSIS continuing its efforts to pursue legislative changes to eliminate the continuous inspection provisions of the Federal Meat Inspection Act. On November 10, 1986, the President signed into law FSIS-supported amendments to the Act that permit FSIS to vary the intensity of inspection coverage in processing plants (Enclosure 1). The statute mandates FSIS to distribute its inspection resources based on appropriate factors, including the plant's operations, the adequacy and reliability of processing controls and sanitary procedures, and the history of compliance with inspection requirements. FSIS is currently developing the criteria and parameters by which this periodic inspection system can be implemented in meat and poultry processing plants. The impact of the new inspection authority will be large and far-reaching within the Agency and the industry. Therefore, it will be some time before implementation is complete.

The amendments also include strengthened enforcement authorities which are now in effect. Additionally, as our September 5, 1986, memorandum noted, FSIS intends to actively seek to employ all enforcement options available to us which have the same intent as OIG's recommendations in this area. Since fiscal year 1984, the number of enforcement actions taken by FSIS has increased yearly. For example, compliance cases referred to the Office of the General Counsel have increased from 36 in FY 1984, to 57 in FY 1985, to 69 in FY 1986. Cases under FSIS authorities forwarded from OGC to the U.S. Attorney's office increased from 25 in FY 1985 to 34 in FY 1986. In both FY 1984 and 1985, the number of inspection withdrawal actions numbered eight.

This increased to 12 withdrawal actions in FY 1986. Unless OIG indicates otherwise, we assume our continuing actions in this area are sufficient to close recommendation 1a.

Recommendations 1b and 1c propose that FSIS establish a statistically valid, compliance-based inspection system designed to provide assurance of consumer protection at a specified confidence level, along with a fee system to recover the costs of increased levels of coverage above an established baseline. Policy officials at the Department level are aware of these recommendations, and we await further guidance from that level as to whether or not FSIS should develop legislative proposals. We will use this occasion to again seek guidance in this area. In the meantime, the President's budget for FY 88 will ask the Congress to authorize full recovery of FSIS costs through user fees applied to all plants. None of the guidance from within the Administration has indicated an intent to recover fees only from plants with compliance problems.

Recommendation 1d proposed increased use of objective laboratory analysis to assess the degree of plant compliance. At present, the Agency is in the process of developing a streamlined inspection system for cattle and swine. In addition, progressive industry members will be encouraged to apply quality control concepts to their operations. Also, a cooperative government-industry system utilizing computer technology for poultry inspection is scheduled to be field-tested next year. New technologies using ELISA (Enzyme Labeled Immunosorbent Assay) for trichina will soon be used in a swine plant in North Carolina. Once the new technologies are proven, plans are to expand them for use in the detection of other diseases of food animals at slaughter. For example, the use of ultrasound for detecting abscesses in livers and cysts in cattle will be tested in 1987. In addition, use of the catalase enzyme test verifies that cooked roast beef products have been cooked to a minimum internal temperature of 145 degrees Fahrenheit. Also in 1987, the Agency will propose to use laboratory-based microbiological standards on a voluntary basis to improve the quality of the meat and poultry supply. Our policies and planned actions should be sufficient to close this particular recommendation.

Recommendation 2 proposes that FSIS request legislative authority to impose administrative sanctions including a sliding scale of fines. The recommendation has already been directed to policy officials at the Department level for consideration, and FSIS has no activity currently underway. However, we will again seek guidance in this area.

Recommendation 3 covers the implementation of internal administrative controls to improve the domestic Residue Monitoring Program.

The Agency has launched a major restructuring of its residue control efforts as a result of the OIG audit. The draft residue program directive (Enclosure 2) focuses on these changes. It delineates science and operations functions by redefining the staff functions within Science and the operational functions within Meat and Poultry Inspection Operations and International Programs. The directive focuses the efforts of Science personnel on planning; review, evaluation and analysis of residue data; development and evaluation of epidemiologic information from monitoring and surveillance data; publication of data and the annual plan; and carrying out oversight responsibilities for the National Residue Plan. The directive identifies the operational and line responsibilities for carrying out the inspection and compliance requirements, assuring that regulatory standards are properly enforced and that the FSIS response is coordinated in emergency situations. Additional work to clarify these responsibilities and functions is needed, and is underway.

Procedural sections of current directives are now being reorganized to reflect these functional changes. The revised procedures will be issued as an appendix to the final directive. Staffing adjustments and organizational changes will be required to properly administer line responsibilities contained in this draft directive. Science will develop the coordinating controls to be administered by operations management to ensure that samples requested are actually taken or otherwise accounted for, the sampling frame is updated, and the annual residue plan is implemented. There are numerous unanswered questions about the appropriate numbers and levels of staff that are sufficient to carry out the increased responsibilities within operations. Work is underway to prepare the needed guidelines. We expect that completing all administrative actions needed to establish organizational improvements will result in some delays in publishing the final directive. We will forward a copy of the final directive when it is officially issued.

With regard to your specific recommendations, Recommendation 3a proposes that residue monitoring data be analyzed promptly and also recommends periodic reporting. FSIS is committed to placing a high priority on prompt publication of summary reports. Procedures are now in place to speed publication of annual data summary reports. Currently the CY 84 and CY 85 annual data books are in the printing and clearance process, and the CY 86 data book is to be published by May 1, 1987.

The Residue Monitoring Program's first quarterly data summary (Enclosure 3) provides the percent violative samples for the period specified, with the upper 95 percent confidence limit. However, we are concerned the report may be misleading, since the residue monitoring program is not designed to provide precise estimates of percentages of carcasses containing violative levels of residues nor are confidence levels meaningful, particularly on a quarterly basis. To make quarterly reporting more suitable, the residue monitoring data will be integrated with professional knowledge to project possible trends. Quarterly data reviews will compare results from four preceding quarters, when available. Any apparent changes will be noted in the quarterly report. In addition, special data reports such as a monthly swine sulfa data report, will be provided as required. In the future we plan to complete assembly of calendar year summary residue data by March 1, review and evaluate the data by April 15, and publish final reports by May 1 each year.

Recommendation 3b addresses the cross-training of employees to update the MARCIS data base. Science intentionally limits the number of persons who can update MARCIS so that there is a clear audit trail and accountability for the process. Direct updates are not the common means to add data to MARCIS; they are used generally for error correction. Three employees are proficient in the direct update process, although only the Data Base Administrator is authorized to do the updates under MARCIS security rules. One additional staff member has been trained in this activity as "backup". In a related action, FSIS management has just approved a reorganization of the Mathematics and Statistics Division to better administer the data base.

Recommendation 3c covers documentation of analyses of residue monitoring data and retaining conclusions for review and trend analysis. In addition to improving the timeliness of our analysis of residue monitoring data, as discussed in response to recommendation 3a, we plan to issue revised directives to strengthen the controls and documentation of review of unusual residue findings referred by the laboratories. These include logging in all referrals and documenting the review and any recommended actions. We also expect to complete in February 1987 a revised draft of a directive modifying procedures to follow the status of investigations of Unidentified Microbiological Inhibitors (UMI's).

Recommendation 3d addresses developing controls to ensure that residue monitoring samples requested are actually taken or accounted for and to allow for prompt followup by providing monthly exception listings of samples not taken to area offices. As described above, supervisory followup on sample collection concerns will be a basic part of the realigned functions in operational units. While the new operations positions are being established and filled, Science will proceed to develop reports reconciling scheduled monitoring sampling and responses. The reports will characterize each non-response by its cause, if determinable. Science personnel will report appropriate information to responsible inspection operations or laboratory officials. The expected completion date of the project is the end of March 1987.

Recommendation 3e calls for using information in the followup of non-response samples to update the sampling frame, and Recommendation 3f calls for notifying the residue monitoring staff when grants of inspection are issued so that the sampling frame can be updated to include new plants. As noted at the time of the audit, the system is inadequate to meet the needs of the residue program. FSIS is seeking to improve the current data base by promptly adding new plants, deleting closed plants, and modifying species data to enhance the sampling frame.

Meat and Poultry Inspection Technical Services, in conjunction with Science and other FSIS units, is identifying program needs for long range improvements, including development of the Common On-Line Reference System (CORE). A statement of work has been prepared and we expect to begin the contract soon, for completion of the CORE data base by the end of CY 1987. Additional improvements are dependent on money and manpower availability for programming and systems development. However, until an adequate agency data base is available, slaughter data will be added to the slaughter files using the MPITS data base every three months. Establishments, or sampling of species in an establishment, will be inactivated in the sampling frame when inspectors return sample request forms indicating that sampling is not appropriate.

Recommendation 3g pertains to considering seasonal slaughter variations in the sampling plan to allow each animal an equal chance of selection. The FY 1988 budget request proposes a substantial increase in funding for information resource management improvements. Assuming adequate funds are available for data base improvements, we will fully implement seasonal adjustments in CY 1988. Preliminary adjustments for seasonal variations are part of the CY 1987 plan. The 1987 plan is being readied for printing and we will forward a copy to you when it is available.

Recommendation 3h concerns performing a monthly reconciliation of samples analyzed at the laboratories to sample data entered into MARCIS and ensuring that all residue monitoring results are communicated to the national office. To ensure that residue monitoring results from all field laboratories are communicated to the national office, the lead computer operator in each laboratory, on a monthly basis, provides the Scientist-in-Charge with a computer generated report, "Summary of Samples Received and Not Completed." The supervisor compares the logbook entries to the computer report and identifies any samples completed but not entered into the computer. The laboratory computer operator makes corrections for transmission to MARCIS. At headquarters the MARCIS Data Base Administrator cross-checks field laboratory data reports with MARCIS records and requests re-transmission of any missing records. We are also implementing an independent verification of data entry of all violative samples as discussed in our response to your draft.

In our September 5, 1986, response to your draft report we discussed plans to clarify functional and organizational relationships among FSIS components in conducting the National Residue Program. In related activities, we continue to emphasize prompt feedback of laboratory results to inspection personnel. In further elaboration of the residue program directive, FSIS will develop integrated policies, procedures, and responsibilities for each organization involved in feedback of laboratory results to inspection managers.

We are also proceeding with a complete resources analysis of the Science computer information systems. The results will be used as a guide for future development. A contract has been let to develop a comprehensive and centralized interactive system to track and manage information about slaughter residue violations. The Food and Drug Administration (FDA) will be an active user of the system and has been involved with FSIS in the development of the analytical prototype. The contractor is required to produce an operational pilot system to capture required information about each violation, such as names of owners and intermediaries. In addition, the system will keep track of each process performed (laboratory analysis, transfer of samples between USDA and FDA, transmittal of warning or regulatory letters to owner, and between agencies, and commencement or termination of actions by both FDA and FSIS); institute data administration, including data quality procedures; and permit investigations into patterns of violations and violators. We anticipate that the pilot system will be operational at a number of sites in early 1987. The system is planned to be eventually turned over to MPIO for use by inspection personnel.

The FSIS Program Training Division has been charged with developing programs to increase inspectors' knowledge and understanding of residue control activities and promote a higher awareness of the need to fill all possible residue sample requests. New policies and procedures and functional statements for residue control were thoroughly discussed at the FSIS National Supervisory Conference, December 8-12, 1986. A copy of the conference agenda and the Administrator's keynote address are enclosed, as both documents reference this area (Enclosures 4 and 5).

Recommendation 4-Residue Enforcement Activities

The enclosed draft directive covers recommendations in the audit report that pertain to the residue enforcement area, including liaison and coordination between FDA, Environmental Protection Agency (EPA) and the Packers and Stockyards Administration (P&SA) for investigatory actions. Revised areas of responsibility, although not yet finalized, will centralize guidance to inspection field personnel and will provide for coordination among FSIS units and other agencies when necessary to respond to residue contamination incidents. In addition, the same officials will be responsible for implementation of the residue violation system and traceback.

An interim rule with a request for comments entitled "Sulfonamide and Antibiotic Residues in Young Veal Calves; Modified Testing Procedures" was submitted to the Office of the General Counsel on October 30, 1986 (Enclosure 6). It contains provisions for additional sampling and control measures where needed and clarifies that certification of animals must be made in writing. The proposed interim rule has been discussed with P&SA. Additionally, policy personnel are beginning work on a proposal that will provide for standard forms to be used for calf certification. As you may be aware, the Paperwork Reduction Act stipulates that any forms to be required for use by the private sector be closely coordinated with the Office of Management and Budget. We will keep you informed of our progress in this area. FSIS legal authority is to be used for enforcement action against false certification. Most recently, FSIS has worked with P&SA to secure the conviction of two calf producers for marketing residue-contaminated animals. In other related actions that demonstrate our intent, FSIS, FDA and Arkansas state officials have worked together with OIG to obtain the indictment of four former Arkansas gasohol plant operators involving the sale of heptachlor-contaminated dairy feed.

Recommendations 5 and 6 pertain to FSIS issuing press releases in all Class I recalls and supplementing the recall strategy with provisions designed to improve recordkeeping in all aspects of recall incidents.

As we stated in our response to your draft audit, we plan to continue our policy of public notification in the case of Class I recalls and document any exceptions made for good cause. FSIS is currently developing a formal statement of policy with regard to public notification of recalls. This statement will clarify the limited exceptions that may be appropriate in recall situations. We plan to provide this statement to OIG when it is finalized.

The Agency recently issued a press release announcing a product recall with a Class II classification because a situation existed for which a public notification was deemed to be in the public interest. This is a variation from normal Agency procedures, and in keeping with our commitment to OIG, it has been carefully documented by Agency personnel (Enclosures 7 and 8).

Guidelines on consignee notification by recalling firms are being included in letters from FSIS whenever a recall is requested. To emphasize the importance of the firm's notification to its consignees and the followup action expected of a recalling firm, each letter will include suggestions for the kind of letters they may use in notifying and instructing consignees (Enclosure 9). The Compliance Program has developed examples of these letters and will furnish them to recalling firms when the Compliance Officer visits the firm to discuss the recall action.

Other measures initiated by the Compliance Program are new training guidelines and instructions concerning recalls to more clearly establish company distribution information developed during effectiveness checks. The new guidelines also require written explanations for discrepancies and make necessary changes regarding the effectiveness checks. Drafts of our issuances to Compliance Officers-in-Charge and our Compliance Program Training Manual are enclosed (Enclosures 10 and 11).

Recommendations 7 and 8 call for the establishment of formal, documented reviews to ensure the consistency of labeling policy decisions and for FSIS to publicize the availability of the Standards and Labeling Policy Book.

To document reviews and assure consistency of labeling decisions, we have developed a system of audits of label reviewers' decisions on sketch labels. A statistical sample of sketch approvals is taken and audited. Results are recorded, analyzed for trends, and provided to the Program and Analysis Review Branch (PARB), Standards and Labeling Division (SLD). Individual weekly summary and analytical reports on errors found are provided to supervisory personnel. Detailed documentation of the duties of PARB are being developed as finalized procedures are implemented. Analytical reports by PARB analysts are to be made available for review when completed. No indepth reports on study methods are yet available because no indepth studies have been completed. Audit procedures are also under development and will be documented as soon as they are available.

FSIS standards and labels personnel publicize the Standards and Labeling Policy Book during presentations at group meetings, individual conversations with industry and other interested groups, and in meetings with individual firm representatives. We will publish a description of the Policy Book and its availability in the April 1987 periodic update of policy memoranda in the Federal Register.

Recommendation 9 pertains to furthering the consistency of FSIS's application of MPI policies and regulations.

To strengthen the provisions of the Preoperative Sanitation MPI Bulletin 83-13, and to standardize preoperative sanitation inspection procedures throughout the meat and poultry industry, FSIS formed a Sanitation Task Force, which recommended extending the basic procedures of MPI Bulletin 83-13, with some modifications, into an FSIS Directive for all meat and poultry plants. An overview of the proposed directive is enclosed (Enclosure 12). The implementation of this process will occur in poultry plants early in 1987. A new requirement is that the Inspector-In-Charge (IIC) periodically accompany the inspector(s) to assure uniform application of preoperative sanitation guidelines.

To address the OIG recommendation on better controls on documenting chemicals and pesticides used in plants, Circuit Supervisors will be responsible for ensuring that the IIC maintains the chemical listings as outlined in sections 8.37, 8.38, and 8.39 of the Meat and Poultry Inspection Manual. As you recommended, FSIS is developing proposed regulations to require plants to maintain records of chemicals and pesticides they use. We will keep you advised of the progress of this endeavor.

An in-plant review system that will be performed by the IIC rather than by the Circuit Supervisor has been developed, along with a revised In-Plant Performance System (IPPS) of reviews to be conducted 11 times a year by the Circuit Supervisor and the Multi IPPS Supervisor.

Drafting is complete on the new establishment review form Corrective Action Sheet to identify deficiencies and provide the means for tracking corrections and revised glossary with expanded guidelines and references. The establishment review form is designed to facilitate the capture of information on computer for easy access and use in tracking progress and documenting plant compliance history.

The new IPPS review/rating forms (Enclosure 13) have been developed for use in documenting the results of on-site reviews and in determining performance ratings of IIC's. The IPPS review form can also be used by other supervisory and managerial levels evaluating performance of subordinates. The new review system permits separation of the review processes for plant compliance and corrective action from performance assessments for FSIS personnel.

The revised in-plant review system was discussed in depth at the National Supervisory Conference in December 1986. Training sessions are being conducted in the field preparatory to implementation of the review system in early 1987.

Enclosures (13)

cc:
L. M. Crawford, Associate Administrator, OA
R. J. Prucha, Deputy Administrator, MPIO
R. E. Engel, Deputy Administrator, SCI
J. A. Powers, Deputy Administrator, AM
J. W. McCutcheon, Deputy Administrator, MPITS
P. F. Stolfa, Deputy Administrator, IP
N. J. Robinson, Director, ILA
J. A. Segal, Director, FP
C. P. Mercado, Director, EEOCR
C. M. Seymour, Director, R&E

FSIS:OA:R&E:AEO:AFischer:vs:Status1a:447-2426:12-31-86
REWRITTEN:REngel/JPrucha:fsw:01-15-87

| Clearance | Initial | Date |
|---|---|---|
| LMCrawford,Assoc.Adm.,OA | | |
| RJPrucha,Dep.Adm.,MPIO | | |
| REEngel,Dep.Adm.,SCI | | |
| JAPowers,Dep.Adm.,AM | | |
| JWMcCutcheon,Dep.Adm.,MPITS | | |
| PFStolfa,Dep.Adm.,IP | | |
| NJRobinson,Dir.,ILA | | |
| CMSeymour,Dir.,R&E | | |

United States
Department of
Agriculture

Office of
Inspector
General

Washington, D.C.
20250

Date February 19, 1987

Reply to
Attn. of 38607-1-At

Subject FSIS - Meat and Poultry Inspection Program

To Donald L. Houston, Administrator
Food Safety and Inspection Service

We have reviewed your first response to the subject audit report and have concluded that sufficient actions have been taken to resolve or close all recommendations except 5, 6a, 6b, 6c, 9b, 9c, and 9d. We will need additional information to close or resolve these recommendations.

You should forward the supplemental data concerning the seven unresolved audit recommendations to us by March 6, 1987. Please note that P.L. 96-304, the Supplemental Appropriations and Rescission Act of 1980, and OMB Circular A-50 require that all audit findings and recommendations be resolved within a maximum of 6 months from the date of report issuance. Specific criteria and procedures for audit resolution and closure are set forth in Departmental Regulation 1720-1. Since this report was released on September 26, 1986, it must be resolved by March 26, 1987. Otherwise, we will be required to include it in our "List of Audits Not Resolved Within 6 Months" in the Semiannual Report to Congress.

Based on the documentation you provided, we closed recommendations 1a, 1b, 1c, 1d, 2, 3b, 8, and 10 and resolved recommendations 3a, 3c, 3d, 3e, 3f, 3g, 3h, 4a, 4b, 4c, 7, and 9a. To close the resolved recommendations we will need the documentation requested in the attachment.

For your convenience, we have included an attachment showing the status of each recommendation and detailing the additional documentation needed for audit resolution and closure.

We appreciate the actions you and your staff have taken to effect a timely resolution of this audit. Please let us know if we can be of any assistance.

STEADIE MIXSON
Regional Inspector General for Audit

Attachment

# STATUS OF RECOMMENDATIONS - AUDIT NO. 38607-1-At

A. Status of Recommendation

| Recommendation # | Status |
|---|---|
| 1 a | Closed |
| b | Closed |
| c | Closed |
| d | Closed |
| 2 | Closed |
| 3 a | Resolved |
| b | Closed |
| c | Resolved |
| d | Resolved |
| e | Resolved |
| f | Resolved |
| g | Resolved |
| h | Resolved |
| 4 a | Resolved |
| b | Resolved |
| c | Resolved |
| 5 | Unresolved |
| 6 a | Unresolved |
| b | Unresolved |
| c | Unresolved |
| 7 | Resolved |
| 8 | Closed |
| 9 a | Resolved |
| b | Unresolved |
| c | Unresolved |
| d | Unresolved |
| 10 | Closed |

## B. DOCUMENTS NEEDED FOR RESOLUTION/CLOSURE OF UNRESOLVED FINDINGS

### Recommendation #5

Please provide a copy of the policy statement you are currently developing regarding public notification of recalls. Because our recommendation was for issuance of press releases in all Class I recalls, we will need to determine whether the "limited exceptions" referred to in your response conflict with the intent of our finding and recommendation.

### Recommendations #6a, 6b, and 6c

In order to determine whether the actions you have described in your response are adequate for resolution, we need to review the documentation for any policies and procedures you may have amended. The changes in the Training Manual you provided are appropriate, but do not address the issue of actions to be taken when firms cannot provide reasonable assurance that adulterated products have been removed from commerce. Additionally, we believe that the policies outlined in the Training Manual should also be issued in a Notice or other format that clearly establishes their status as official FSIS policy.

### Recommendation #9b

Please furnish a copy of the Directive outlining the revised preoperative sanitation procedures. We will need details concerning the strengthened provisions of the revised procedures and the internal administrative controls established to ensure that inspectors enforce the revised procedures and delay operations when plants do not maintain acceptable levels of preoperative sanitation. Details concerning the interim measures of product retention, equipment rejection, or use of the Intensified Regulatory Enforcement program, as described in your September 5 response, might provide a basis for resolution. However, we will not be able to close the recommendation until appropriate controls have been established and implemented.

### Recommendations #9c and 9d

The corrective actions described in your response will probably be adequate to resolve both recommendations, but we need additional information before we can make that determination. If sections of the Meat and Poultry Inspection Manual were revised in response to the recommendations, please provide us with copies of the instructions requiring inspectors to make periodic, documented reviews of chemicals used in the plant. If proposed regulations have been developed, please provide us with a copy.

## C. DOCUMENTATION NEEDED TO CLOSE RESOLVED RECOMMENDATIONS

(Audit recommendations are resolved when agency management and OIG agree on the action to be taken. For each of the following issues, we believe that this agreement has been reached. In your response, you noted several items that would be provided as they became available. For your convenience, we compiled the following list that details both the documents you have already agreed to send and the additional data necessary for us to determine when the recommendations can be closed.)

### Recommendations #3a, 3c, 3d, 3e, 3f, 3g, and 3h

In your response, you agreed to provide the final version of draft Directive 10,530.1, "National Residue Program," and the 1987 Annual Plan. In addition to these documents, we will need the following items to confirm that the corrective actions taken are consistent with the intent of our findings and recommendations.

- Details of the procedures in place to speed publication of annual data summary reports.

- A copy of the monthly Swine Sulfa Data report showing confidence intervals or other conclusions drawn about problem areas.

- The revised draft of the Directive modifying procedures to follow the status of investigation of Unidentified Microbiological Inhibitors including instructions for documentation of conclusions and analyses. Additionally, you should provide copies of any other revised Directives, such as the one to strengthen the controls and documentation of review of unusual residue findings referred by the laboratories, if they contain provisions relating to timely analysis of residue monitoring results and documentation of reviews.

- An example of the report developed to reconcile scheduled monitoring sampling and responses.

- A copy of the statement of work for the Common On-Line Reference System (CORE) or other documentation explaining how the new system will be used to update the sampling frame.

- Sufficient details concerning the "independent verification of data entry of all violative samples" to allow us to determine whether these controls are adequate to ensure that all (violative and non-violative) results are communicated to the national office.

Recommendations #4a, 4b, and 4c

In addition to the final version of the "National Residue Program" Directive, we will need either a final draft of the interim rule, "Sulfanomide and Antibiotic Residues from Young Veal Calves; Modified Testing Procedures," as cleared by OGC or a copy of the new Calf Certification form, as cleared by OMB. This will allow us to document the inclusion of warnings to producers about the consequences of false statements in connection with the Certified Calf Program.

Recommendation #7

Please provide documentation of the duties of PARB and details as to how its studies are to be conducted. Additionally, we will need information concerning the audit controls systems developed and implemented to monitor activities and evaluate the degree of accuracy and consistency in policy application. Our review of these materials will allow us to determine whether the new system will ensure the consistency and accuracy of labeling decisions to the degree necessary to close the recommendation.

Recommendation #9a

In order to confirm our understanding of your new tracking system, please provide us with the instructions for completing FSIS Form 8110-2a. It would also be helpful to include a copy of the revised glossary referred to in your response.

United States
Department of
Agriculture

Food Safety
and Inspection
Service

MAR 27 1987

To: James R. Ebbitt
Assistant Inspector General for Audit

From: Donald L. Houston
Administrator

DHouston

Subject: Status of FSIS Actions Taken in Response to OIG Audit of FSIS Meat and Poultry Inspection Program (150-Plant Audit), #38607-1-At

We are pleased to provide you with an update of actions taken on the recommendations stemming from the above-referenced audit. We have organized our response according to whether each recommendation was considered unresolved or resolved in your February 19, 1987, memorandum to us. Please let me know if any recommendation remains unresolved after you have reviewed our response.

Unresolved Recommendations

Recommendation 5: To resolve your recommendation that we provide a policy statement regarding public notification of recalls, we are providing you with a copy of our policy statement dated March 12, 1987, (Enclosure 1). Many situational possibilities exist in the recall area, and our stated recall policy enables Agency officials to make judgments pertinent to each recall situation. We must be able to operate within general parameters that permit actions to be taken on a case-by-case basis. For this reason, we have elected to state our recall policy as it appears on the enclosure. We hope our action resolves this recommendation.

Recommendation 6: In response to your recommendation on documentation of compliance officers' findings during recall effectiveness checks, the Compliance Program issued a revised recall training guide. This training guide is an effective internal operating guideline to assist compliance officers with product recalls. It is fully consistent with the provisions of FSIS Directive 8080.1 dated August 4, 1983, "Recall of Inspected Meat and Poultry Products," which outlines the Agency's official policy with regard to product recalls. The new guidelines also require written explanations for discrepancies and make necessary changes regarding the effectiveness checks. A copy of the draft training manual was provided to you in our January response.

The first product recall under the new procedures involved Establishment 8577, Latalia Provision Corporation, Wilkes Barre, Pennsylvania, Emergency Programs Case Number 7005. The recall has been completed. Within three weeks, we will be furnishing you with a final report that shows the results of the newly implemented procedures.

FSIS 2630-5(12/79)

Neither the Federal Meat Inspection Act nor the Poultry Products Inspection Act provides for mandatory product recalls. Fortunately, most companies do not want adulterated or misbranded products in the marketplace and usually agree to a voluntary recall. In the most extreme example, if a company refuses to voluntarily recall adulterated or misbranded products, the Acts provide the authority to detain and seize. Companies can also be prosecuted under the Acts for knowingly distributing adulterated or misbranded products in commerce. Such action is rarely required but would be initiated in appropriate situations. In light of the above, we do not believe issuance of additional notices or directives is necessary.

Recommendation 9: To assist in the resolution of Recommendation 9b, which pertains to preoperational sanitation, we are enclosing the current draft of the Preoperational and Operational Sanitation Inspection Directive (Enclosure 2). You also requested that we provide specific information about the internal controls in place to ensure that the revised preoperative sanitation inspection procedures are enforced.

One internal control being established is a new preoperative sanitation training program. Two staff members from each regional office have been trained to be the primary training team for their region. Their training included classroom lectures and an in-plant exercise. The training team will be responsible for uniform training and enforcement of policy within the regions. The trainers' presentations to the area supervisors are currently being critiqued. They will then train Inspectors-in-Charge(IIC's) and establish pilot programs in a total of 20 establishments. After three weeks of operation in the establishments, the 20 programs will be reviewed by the regional representatives. Adjustments will be made as necessary. The regional training teams will then proceed to train the IIC's in all poultry plants. In addition, the proposed system emphasizes the establishment's responsibility in maintaining standards for sanitation, provides for daily review of the inspection records, and for on-site supervisory review of the inspection activity once per week.

The issuance of the directive in its final form will be necessary to initiate the IIC's development of programs that comply with the proposed directive. The directive is currently in the review process that precedes publication. Complete implementation of the directive in poultry slaughter plants is targeted for June 1, 1987.

FSIS addresses Recommendation 9c through the draft Pest Control Directive which provides for a documented review of chemicals and pesticides used in official establishments. The directive requires plant management to provide a list of chemicals and pesticides intended for use to the IIC for review and verification. The directive also addresses your concerns in Recommendation 9d by requiring documentation of pesticide use by both professional exterminators and plant personnel, as well as requiring IIC's to evaluate suitability of chemicals in use by checking them against the "List of Proprietary Substances and Nonfood Compounds Authorized for use Under USDA Inspection and Grading Programs."

Meat and Poultry Inspection Technical Services (MPITS) is currently working with Meat and Poultry Inspection Operations (MPIO) to determine if the Inspection System Work Plan (ISWP) provides the necessary written records for tracking the documentation for pesticide use by both professional exterminators and plant personnel. ISWP is now in the pilot phase in each of the five MPIO regions. Any actions needed to provide for better tracking of pesticide use will be taken if the pilot testing reveals any weaknesses in this area.

The Pest Control Directive will be published this summer. It will also be placed into the rulemaking process, for publication anticipated in September 1987. Drafting of a companion directive and regulation are underway to address the full range of chemicals, such as cleaning compounds and lubricants, used in official establishments. The time frame for publication of the chemicals directive and for the regulation is late summer and early FY 88, respectively.

Recommendations Resolved but not Closed

Recommendation 3: To assist you in closing the appropriate portions of this recommendation, we are enclosing a copy each of the final versions of the draft National Residue Program Directive (Enclosure 3) and the 1987 Compound Evaluation and Analytical Capability National Residue Program Plan (Enclosure 4).

With regard to Recommendation 3a, procedures are now in place to speed publication of the annual summary reports. A computer program on the Agency's HP3000 containing the Microbiological and Residue Control Information System (MARCIS) data base is able to query the data and generate reports. The MARCIS system is directly accessible through the microcomputers in the Residue Evaluation and Planning Division (REPD), making access to the data convenient and timely. This removes the necessity of depending on other divisions for data summaries and printed reports.

Terminals in REPD query and download data from MARCIS and send it directly to graphics software for automated graphics production. The only manual step performed is the addition of new titles. These capabilities have reduced the publication of data summary reports from months to days.

Enclosure 5 (3 sections) contains a copy of the quarterly residue data report, associated reviews, and the swine sulfa data report. Along with the improved system for generating the annual summary reports as described above, these materials should help close Recommendation 3a.

You also requested that we provide a copy of the revised directive which modifies procedures to follow the status of investigation of Unidentified Microbiological Inhibitors (UMI's). After a thorough review of the directive, we believe that the current instructions for handling UMI's are adequate.

In addition, the draft directive of the National Residue Program will provide for better followup of UMI's in the description of duties of the Field Services Laboratory (FSL) Director. The Director is responsible for assuring that all analyses are completed promptly and that results are transmitted to MARCIS within 30 days after sample collection. In addition, the Director of the FSL assures that all analyses for the year are complete and that the results are transmitted to MARCIS by January 31 of the following year.

In order to close Recommendation 3d, we are providing examples (Enclosure 6) of the reports that the Science staff will produce to reconcile scheduled monitoring sampling with the responses received. The principal report is organized for each area of the country, and includes samples scheduled but not analyzed, and the reason for non-analysis. The other portions of the enclosure provide a variety of management summaries. The sample reconciliation system is currently being converted from an IBM compatible system to one designed to operate on the FSIS HP3000 computer system. The new system will produce reports similar to those produced by the old system, and is expected to be operational by May 1, 1987.

Enclosure 7 is a copy of the Statement of Work for the Common On-Line Reference for Establishments (CORE). We have identified the most serious and urgent data needs of Science concerning establishment, slaughter, and processed product information, with particular attention focused on the establishment and slaughter data. The needs will be reviewed and priorities for resolution will be assigned by Science and MPITS.

Concerning the independent verification of data entry of all violative samples, the enclosed September 29, 1986, and January 20, 1987, memoranda and operator instructions (Enclosure 8) implement routines to be followed to improve the quality and timely availability of data, including violations, entered into MARCIS.

Recommendation 4: To assist in closure of Recommendations 4a, 4b and 4c, we are enclosing a copy of the interim final rule published in the January 20, 1987, Federal Register, on Sulfonamide and Antibiotic Residues in Young Veal Calves; Modified Testing Procedures (Enclosure 9). In it, FSIS requires the inspector to establish the testing rate for each establishment based primarily on the residue condemnations of animals slaughtered by the establishment; discontinues the testing of animals condemned for pathological reasons; permits establishment personnel to assist inspection personnel in conducting the tests; clarifies that the certification of the animals must be in writing; and clarifies that the veterinary medical officer can authorize the reduction of line speeds to allow sufficient time for performing tests.

Recommendation 7: Recommendation 7 calls for establishment of formal, documented reviews to ensure consistent labeling policy decisions. You requested that we provide additional documentation of the duties of the Program Analysis and Review Branch (PARB). Presently, the PARB is developing documentation of duties and study methods. We will keep you apprised of these items as they become available.

Recommendation 9a: To close Recommendation 9a, which pertains to improving the consistency of FSIS's application of MPI policies and regulations, we have provided Enclosure 10, which includes instructions for completing FSIS Form 8110-2a, the Establishment Review and Assessment Worksheet, and the revised glossary used to complete the forms associated with the establishment review system.

As you know, many of our committments are in the early stages of development or implementation. Completion of these efforts should contribute to the improvement of the overall inspection program.

Enclosures (10)

## ENCLOSURES

| Enclosure | Title |
|---|---|
| Enclosure 1 | Recommendation 5 Response, OIG Audit #38607-1-AT, Policy Memorandum on Recalls |
| Enclosure 2 | Draft Preoperational and Operational Sanitation Inspection Directive, Number 11,040.1 |
| Enclosure 3 | Final Draft Directive of National Residue Program, Number 10,530.1 |
| Enclosure 4 | Compound Evaluation and Analytical Capability National Residue Program Plan 1987 |
| Enclosure 5 | Residue Monitoring Program Quarterly Data Summary January-March 1986, April-June 1986, Swine Sulfonamide Monitoring Program 1986, Violations/Samples and Violation Rate |
| Enclosure 6 | FSIS Residue Monitoring Program—Samples Not Collected or Not Analyzed, July 1985 |
| Enclosure 7 | Statement of Work for the Common On-Line Reference for Establishments (CORE) |
| Enclosure 8 | Memorandum on Implementation of Phase I of the Science Data Quality Control Program, September 29, 1986 and January 20, 1987 |
| Enclosure 9 | Interim Rule as Published in the Federal Register Sulfonamide and Antibiotic Residues in Young Veal Calves, Modified Testing Procedures |
| Enclosure 10 | Instructions for Completing FSIS Form 8110-2a, Establishment Review and Assessment Worksheet, and Revised Glossary for completing Form 8110-2a |

Subcommittee note: Enclosures retained in Subcommittee files.

[illegible] VICE

7 APR 9 A11 : 21

Date: April 9, 1987

Reply to
Attn of: 7318

Subject: Unresolved Audits

To: Kenneth A. Gilles
Assistant Secretary
Marketing and Inspection Service

There are presently two Office of Inspector General audit reports in the Food Safety and Inspection Service (FSIS) that will not meet the legislatively mandated 6-month deadline for resolution. The Inspector General has recently provided you with a summary of these audits for your review and action. FSIS provided some additional information to the Inspector General after that summary was provided, so an updated summary is being provided here for your use and discussion with FSIS.

The Inspector General's spring 1987 Semiannual Report to Congress is now in the final stages of preparation. The status of audit resolution can be updated until April 15, 1987. It is, therefore, urgent that necessary corrective actions or resolutions be established for these audits.

I would appreciate it if you would work directly with FSIS to bring about the necessary corrective actions in these audits. Please provide the Inspector General with an audit resolution plan by April 15, 1987.

PETER C. MYERS
Deputy Secretary

Attachment

## FOOD SAFETY AND INSPECTION SERVICE

### 1. Domestic Meat and Poultry Inspection Program (38607-1-At) Issued September 26, 1986

Only three areas remain unresolved: (1) recalling unsafe products, (2) plant sanitation prior to operation, and (3) controls over pesticide and chemical usage in meat and poultry plants.

(1) Because "Class I" recalls involve products that, by definition, may cause serious health consequences or death, we questioned FSIS's decision not to issue press releases or make other public notifications for all Class I recalls.

Prior to our audit, FSIS had recognized the need for this public notification in these situations and issued Recall Directive 8080.1 which required the issuance of press releases in all Class I recalls.

In response to our recommendation that the Agency follow these provisions, the Agency provided a policy statement which included exceptions to this requirement for public notification. We agree that some limited exceptions may be appropriate. One would be when the firm responsible can provide reasonable assurance that all of the recalled product has been returned or is accounted for. However, prompt public notification is FSIS's only method of warning consumers not to use recalled products. Therefore, FSIS should make the policy statement more specific to ensure that the length of time granted a firm to provide assurance of the return of recalled products does not exceed 48 hours. The policy statement should also provide for public notification in all areas where the recalled produce is likely to have been distribute.

Our recommendations concerning controls over the recall process were partially implemented through a revised Training Guide for Compliance Officers. However, FSIS has not agreed to take other prompt action, such as product seizure, when firms do not provide the reasonable assurance that recalled product has been removed from commerce.

(2) The preoperative sanitation procedures originally used only in poultry slaughter plants will also be used in red meat slaughter plants and processing plants. Because of the problems our audit disclosed in large poultry slaughter plants, we believe that FSIS should establish effective control over the review process before the Agency applies the procedures in other types of facilities. FSIS responded to our recommendation, that internal administrative controls be established over this procedure, by designating a two-member training team in each region. This does not provide an adequate basis for audit resolution.

(3) In response to our recommendations concerning the need for control over pesticide and chemical usage in meat and poultry plants, FSIS is developing proposed regulations to require plants to maintain records of chemicals and pesticides they use. These proposed changes may increase the industry recordkeeping burden, and consequently may require lengthy review. Because the rulemaking process may take many months to complete, we believe that the agency should issue a Notice or other statement of policy requiring all inspectors to maintain a list of chemicals, pesticides, and lubricants approved for use in the plant. This interim measure will allow FSIS to establish effective control over the use of chemicals and ensure that only approved compounds are used.

FSIS has provided copies of a draft Directive that they believe address the need for interim action. This pest control directive appears to apply only to plants with Integrated Pest Management (IPM). Additionally, we have been advised by FSIS personnel that the reference to a companion directive addressing the full range of chemicals and scheduled for publication in late summer was made in error and no such directive is planned. Therefore, FSIS's actions are not adequate for audit resolution.

## 2. Indirect Cost of the Wisconsin Department of Agriculture (38092-1-Ch) Issued August 20, 1986

This audit is not resolved because FSIS has not agreed to adjust 1984 and 1985 indirect cost rates for unallowable legal expenses. The Agency agreed that legal expenses should not be included as indirect costs and to make necessary adjustments for future fiscal years. However, we believe the rates for the previous years should also be adjusted.

APR 1 5 1987

SUBJECT: Unresolved Audits

TO: Peter C. Myers
Deputy Secretary

This responds to your April 9, 1987, letter regarding two audit reports in the Food Safety and Inspection Service (FSIS) that the Office of Inspector General (OIG) considers unresolved. If corrective actions are not established immediately, the audits will appear in the Secretary's Semiannual Report to Congress.

As you know, FSIS has an excellent reputation for responding to OIG's findings and subsequent followup to commitments. Therefore, it is puzzling to find that, although the Agency has responded to OIG's findings in a positive manner and has submitted documentation supporting planned implementation, the matter has been targeted for urgent resolution by the Secretary's office. In support of FSIS in their efforts to resolve these two outstanding audits, I offer the following information, which I hope will reflect positively on the Agency as they work to meet OIG's recommendations.

Below is a discussion of OIG's points of concern for the audits in question:

1. DOMESTIC MEAT AND POULTRY INSPECTION PROGRAM (38607-1-At) ISSUED SEPTEMBER 26, 1986

According to OIG, three areas remain unresolved. They are: (1) recalling unsafe products, (2) plant sanitation prior to operation, and (3) controls over pesticide and chemical usage in meat and poultry plants. A discussion of FSIS' action of each of these areas follows.

Product Recall

Class I product recalls were discussed many times with OIG's representative. Class I, by definition, involves all possible serious health hazards. Consequently, the FSIS directive calls for public notification and was carefully patterned after the Food and Drug Administration's longstanding policy on recalls. In the past, the Agency has granted exceptions in very limited circumstances. The March 12, 1987, policy statement provided to OIG formalized these very narrow exceptions.

In OIG's summary, it appears they are calling for a third exception which would call for the company to demonstrate that it has the product in question under control within 48 hours. We do not believe an additional exception would be in the public's best interest, since it implies a company could take up to 48 hours to control their product. In very serious cases, the Agency would not allow that much time to elapse before determining the product is under control.

I am convinced that FSIS' recall provisions are adequate to assure consumer protection and that the personnel involved in conducting the recalls are performing in an exemplary fashion. The Agency has, through repeated efforts, attempted to explain these policies to OIG. It is essential that the Administrator of FSIS make reasoned decisions concerning recalls and public notification within the framework of the existing policy but with the ability to examine each situation on a case by case basis.

## Preoperative Sanitation

We believe the OIG auditor misunderstood the depth of our implementation and verification in establishing an adequate system for monitoring preoperative sanitation. I will describe current steps taken to adopt a new system, as was outlined for OIG's auditor by FSIS personnel recently:

a. A two member training team (Primary Team) from each region has been trained by the Agency;

b. The Primary Team has trained the Area Supervisors, the Circuit Supervisors, and the Inspectors-in-Charge (IICs); and

c. Implementation of the new preoperational approach is taking place, step-wise, as follows:

    (1) One plant with followup by the Primary Team and FSIS trainees;

    (2) 20 plants (4 in each region) with followup by the FSIS trainers;

    (3) Nationwide with followup by the Agency's Review and Evaluation Staff.

Thus, in each of the above steps, successful implementation will be verified until the system is successfully implemented in all plants nationwide.

Based on the above, I find the Agency's plan of action satisfactory to provide adequate control over preoperative sanitation procedures. OIG's inclusion of this is another example of the auditor attempting to overly influence Agency policy in how it meets their recommendations.

## Pesticide and Chemical Usage in Plants

We believe the OIG auditor has confused two planned FSIS directives. A directive requiring the plant to provide the IIC with a list of all chemicals used in the plant, accompanied by labels, has been circulated within the Agency for review and is scheduled for publication later this month. A copy of this proposed directive was given to the OIG auditor recently.

A second directive explaining in greater detail the Agency's policy on pesticides is now undergoing staff review and publication is planned for late summer. The OIG representative was not told that either of these directives would not be published. Hence, the conclusion that we would not take this action is erroneous on the part of OIG.

### 2. INDIRECT COST OF THE WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION (WDATCP), (38092-1-Ch) ISSUED AUGUST 20, 1986

In FSIS' response to the audit report, they agreed that legal expenses should be directly charged and not lumped entirely into the indirect cost pool. Starting with Fiscal Year (FY) 1986 proposal, the WDATCP was put on notice to develop a method of directly charging its programs for legal services rendered. For years prior to 1986, there was no mechanism in place at the WDATCP to directly charge such common costs, hence its treatment of the legal expenses as joint costs, and therefore indirect. The WDATCP did not maintain time sheet distribution of such services for those years.

The auditors disallowed ALL legal expenses based on the absence of time distribution data and on certain activities and tasks included in the position descriptions of the legal staff. It should be recognized that there are certain legal services that are necessary and reasonable in the administration of grants, contracts, and cooperative agreements. On this basis, the Agency informed OIG that it would exclude certain legal services from the FY's 1984 and 1985 indirect cost pools, but would not do so for the other legal staff until they determined the degree of their involvement in the administration of grants, contracts, and cooperative agreements. Also, on this basis, the Agency informed OIG that it would exclude certain legal services from the FY's 1984 and 1985 indirect cost pools, but would not do so for the other legal staff until they determined the degree of their involvement in the administration of Federal assistance.

FSIS has scheduled an onsite fiscal review of Wisconsin's Meat and Poultry Inspection Program during the week of May 11. At that time, they will work with the WDATCP staff to determine that portion of the legal expenses allowable as indirect costs. FSIS will include this information in calculating the adjustments to be carried forward. The Agency can not change the negotiated rates for FY's 1984 and 1985 because they are fixed. The legal expenses and the other disallowed costs in this audit report will therefore result in a reduction of the indirect costs allowable for the period(s) covered by our next agreement through the FY 1984 and 1985 over recoveries carried forward.

FSIS expects to complete indirect cost negotiations with the WDATCP within 90 days after the onsite review. They will provide OIG with a copy of the negotiation agreement, which will include the recommended adjustments, in time to close the audit before the next Semiannual Report to Congress.

It is hoped the above actions will give you a better understanding of the Agency's position in resolving these two audits. Unless you direct otherwise, I do not plan to have FSIS take any further action in response to OIG, as we believe these outstanding recommendations have been resolved.

for Kenneth A. Gilles
Assistant Secretary
Marketing and Inspection Service

cc:
F. Gilles
J. McCutcheon, Deputy Administrator, IP
W. Horne, Acting Deputy Administrator, MPIO
J. Powers, Deputy Administrator, AM

FSIS:OA:R&E:MFogle:rgl:447-2383:4/14/87
RETYPED:FSIS:OA:R&E:MFogle:rgl:447-2383:4/15/87

| Clearance: | Initial | Date |
|---|---|---|
| DLHouston,Adm.OA | | |
| JGottleman,Act.Dir,E&E | | |
| JWMcCutcheon,Dep.Adm.,MPITS | | |
| WSHorne,Act.Dep.Adm.,MPIO | | |
| JAPowers,Dep.Adm.,AM | | |

United States
Department of
Agriculture

Food Safety
and Inspection
Service

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James R. Ebbitt
Assistant Inspector General for Audit

MAY 5 1987

Donald L. Houston
Administrator

D Houston

Resolution of the FSIS Meat and Poultry Inspection Program Audit, #38607-1-At

As we discussed on Friday, May 1, 1987, enclosed are the Agency's planned actions for resolving the subject audit's findings.

If you need additional information, please give me a call.

Enclosure

## SANITATION

The Agency is planning immediate implementation of the enclosed FSIS Directive 11,040.1, "Preoperational and Operational Sanitation Inspection," to be published shortly. After necessary union consultation on May 19, 1987, inspectors-in-charge (IICs) and the GS-8 inspectors will be trained by the regional training teams on a circuit-by-circuit basis, followed by immediate implementation of the directive. Preliminary work is now underway.

The intent of the directive is to make plants more responsible for detecting their own cleanup weaknesses. Rooms or departments will pass or fail the preop sanitation inspection based on what an inspector finds in a few official sample areas randomly chosen within those rooms or departments. When an inspector finds deficiencies outside the official sample areas, the deficient items will be tagged and rejected for use until properly cleaned.

The new directive will require direct, weekly supervision of the GS-8 inspector by the IIC to evaluate inspection procedures, sanitation standards, and plant cleanup thoroughness prior to inspection.

## PLANS TO UPDATE SAMPLING PLAN

To address problems that exist in the data bases used for residue sampling, FSIS requires accurate and current establishment numbers along with the species that the establishments are authorized to slaughter. We also require accurate information on the numbers and types of animals that are slaughtered each month. The problems in addressing this follow in a description of the CORE system:

### Common On-Line Reference for Establishments (CORE)

The CORE system is designed to provide a centralized repository of meat & poultry plant information. This information includes plant location, owner, type of operation(s), various mailing information, and a breakout of slaughter and processing categories. Examples are species authorized for slaughter, reimbursable inspection categories, processing categories (boning, canning, curing, etc.) and export categories for domestic plants. CORE does not maintain plant production data.

CORE will be implemented in a dual concept. First, all data will reside on the Agency's HP-3000 located in Washington. This data will be updated on a daily basis from entries made by MPIO regional and IP headquarters personnel. This data base will function as the central plant information for all automated systems requiring such data. Second will be a subset of the total data in each of these remote sites. All data entry will be performed at the remote sites. Data cleansing will take place at these sites during the data entry process. New data will be collected for those sites daily.

The CORE system is currently in development by Data Base Management Inc. (DBMI). Delivery of the final design is scheduled for June 30, 1987. CORE should be fully operational by April 1, 1988.

The Agency collects slaughter data through the Animal Disease Reporting System (ADRS). The system is not adequate for residue sampling needs. Since the system is used for many purposes within the Agency, it would not be advisable to quickly modify that system to address the residue sampling needs, even if this were possible. FSIS intends to make use of some of this data where feasible and to utilize the National Agricultural Statistics Service's slaughter figures while proceeding to attack the longer range requirements of the Agency for the ADRS. A description of the ADRS follows:

## ADRS, Phase II

The ADRS contains slaughter totals and ante- and post-mortem inspection summaries reported from livestock and poultry establishments. These data are used for sampling purposes. A recent study has concluded that an array of problems caused by poor form design, inspector error, data entry error, lack of sufficient edit and range checks, and inadequate reporting supervision has limited the usefulness of these data for sampling purposes.

A comprehensive project, entitled, "ADRS, Phase II," has been initiated to address these problems and make ADRS useful for Agency needs. A portion of the project, which involves automated edit and range checks, will be contracted to expedite its implementation. Contractors will be tasked with developing the following features, which will greatly improve ADRS for sampling purposes:

1. Plants with a 0 kill which have not submitted a "No Kill" report will be flagged for follow-up.
2. Plants which kill a species of animal they have not killed previously (in a certain time frame) will be flagged for follow-up.
3. Plants with an "unusual" (to be defined) increase or decrease in slaughter totals (as compared to a certain previous time frame) will be flagged for follow-up.
4. Many other features regarding disease totals.

The ADRS will be updated weekly from data transmitted by mail to the Des Moines Data Services Center until computers are available at inspection locations.

## UNIDENTIFIABLE MICROBIAL INHIBITION (UMI)

For several years, it has been the Agency's practice to condemn domestic carcasses associated with unidentifiable microbial inhibition (UMI) revealed in official bioassays for antibiotic residues. This policy was derived from professional judgment based on the best scientific methodology available and on the need for protection of public health. The Agency has expended considerable resources in an effort to determine whether compounds toxic to human beings are responsible for UMI. Our efforts to this point have not yielded results which will support continuation of the policy of condemnation for UMI. Science will, however, continue its efforts in addressing the UMI issue as new methodology becomes available.

A review of FSIS Directive 10,012.1 did not reveal any instructions for disposition of UMI carcasses and thus there is no need for issuance of the new directive. Current procedures therefore, will be altered to remove unidentifiable microbial inhibition as the sole ground for condemnation of carcasses. To accomplish this, a notice defining future policy is under development and will be released as soon as possible.

As agreed in our meeting, in the near future, we will provide you with an example(s) of documented UMIs.

REPORTS TO RECONCILE SCHEDULED MONITORING SAMPLING

Until mid 1985, Science produced reports comparing residue sample requests and samples actually analyzed in our laboratories. The reports categorized many of the reasons for discrepancies (e.g. spoiled samples). The reports were discontinued because, since that time, the discrepancy information has been collected in the FSIS HP-3000, while the scheduling information resides in the WCC computer system. By June 1987, scheduling will be completely moved to the HP-3000 along with historical schedules for the current calendar year. From then on, the reports will be produced monthly. This month, we expect to have a report summarizing the reconciliation effort for 1987 to date. A copy of the reconciliation report will be provided as soon as it becomes available.

Enclosure: "Preop" Directive

BY THE COMPTROLLER GENERAL

# Report To The Congress

OF THE UNITED STATES

# Improving Sanitation And Federal Inspection At Slaughter Plants: How To Get Better Results For The Inspection Dollar

The Department of Agriculture's Food Safety and Inspection Service inspects federally approved meat and poultry slaughter plants to see that they are sanitary and that they produce wholesome, unadulterated products. GAO made surprise visits to 62 randomly selected plants in six States to test the effectiveness of the inspection program.

Service supervisors accompanying GAO rated 26 percent of the 62 plants--27 percent of the meat plants and 24 percent of the poultry plants--as unacceptable in one or more of six basic program requirements and noted numerous deficiencies not severe enough to warrant unacceptable ratings.

GAO makes several recommendations to strengthen enforcement of inspection program requirements, assure that plant managers carry out their responsibility to operate and maintain sanitary plants, and help ensure the most efficient use of Federal inspection resources.

UNITED STATES GENERAL ACCOUNTING OFFICE

CED-81-118
JULY 30, 1981

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-203654

To the President of the Senate and the
Speaker of the House of Representatives

This report discusses the Department of Agriculture's administration of the Federal Meat Inspection Act and the Poultry Products Inspection Act at meat and poultry slaughter plants that do business in interstate commerce. It identifies certain areas in which the Department could improve inspection activities to assure that slaughter plant operations are sanitary and that meat and poultry products are wholesome, unadulterated, and properly marked. In particular, this report addresses needed improvements in sanitation, pest control, plant water systems, product acceptance testing programs, ante mortem and post mortem examinations, and controls over condemned and inedible materials. This report also discusses the impact of inspector shortages on the overall inspection program.

We are sending copies of this report to the Director, Office of Management and Budget, and to the Secretary of Agriculture.

Milton J. Socolar
Acting Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

# IMPROVING SANITATION AND FEDERAL INSPECTION AT SLAUGHTER PLANTS: HOW TO GET BETTER RESULTS FOR THE INSPECTION DOLLAR

## DIGEST

Inspectors from the U.S. Department of Agriculture's Food Safety and Inspection Service monitor meat and poultry slaughter plants doing business in interstate commerce to make sure that plant operations are sanitary and that products are wholesome, unadulterated, and properly marked.

GAO made this review to evaluate how well the inspectors were carrying out their responsibilities, whether plant managers were complying with inspection program requirements, and how efficiently the Department was using its inspection resources.

Assisted by Service supervisors, GAO made unannounced visits to 62 randomly selected meat and poultry slaughter plants in six States to evaluate plant and inspection staff compliance with inspection program requirements. Sixteen, or 26 percent, of the plants--27 percent of the meat plants and 24 percent of the poultry plants--were not in compliance with one or more of the six basic inspection program requirements. (See pp. 5 and 7.)

Eleven plants were unacceptable in sanitation, 7 in pest control, 4 in controls over condemned and inedible materials, 2 in ante mortem and post mortem inspection, and 1 in water supply potability. All plants were acceptable in sewage and waste disposal. (See p. 9.)

Based on the results at the 62 plants, GAO estimates that 44, or 18.4 percent, of the 238 plants sampled in the six States--181 meat plants in four States and 57 poultry plants in two States--do not acceptably comply with one or more inspection program requirements. Further, 24.9 percent of the meat and poultry slaughtered in those 238 plants comes from plants unacceptable in one or more requirements. (See p. 7.)

The high incidence of unacceptable ratings and the large number of deficiencies found at plants not bad enough to warrant unacceptable ratings show that both plant managers and inspection program staff are not fully meeting their responsibilities. (See p. 9.)

## SANITATION PROBLEMS

Of the 62 randomly selected plants, 18 percent received unacceptable sanitation ratings. The majority of the remaining plants had numerous sanitation deficiencies that the reviewers did not consider serious enough to warrant unacceptable ratings but which indicated that inspectors and plant managers were not fully carrying out their responsibilities. In some cases plant managers appeared to rely extensively on inspectors to identify sanitation problems rather than having their own controls over sanitation.

Some of the sanitation deficiencies noted were

--condensation dripping on, and thereby contaminating, carcasses;

--very dirty overhead structures and equipment;

--dead flies on work surfaces that meat contacts; and

--meat dragging through dirty drip trays.

In some cases, the deficiencies were due to inadequate cleanup from the prior day's work. In other cases, the deficiencies were more long term. (See pp. 11 to 16.)

## PEST CONTROL

The seven plants with unacceptable pest control programs had rodent, insect, or insecticide problems. Rodent problems existed in storage rooms and buildings and in maintenance areas. Some plants had fly or other insect problems inside and outside. One plant had inadequate controls to assure that insecticides were used properly. (See p. 17.)

## WATER SYSTEM PROBLEMS

Only one plant received an unacceptable water supply rating. However, 39, or 63 percent, of the 62 random sample plants had water system deficiencies that could result in contamination of the plants' potable water supplies. These deficiencies included improper cross-connections between potable and nonpotable waterlines and inadequate back-siphonage protection. (See pp. 21 and 22.)

## ACCEPTANCE TESTING PROGRAMS OF QUESTIONABLE VALUE

The Service's acceptance testing programs for cattle and poultry carcasses are ineffective because they are not being conducted as designed. The programs were designed as statistically valid random sampling programs, whereby sample results would be indicative of slaughter dressing defects (such as grease, hair, or bruises) of the universe sampled. However, inspection and plant personnel carrying out the programs invalidated them by substantially deviating from the prescribed sampling plans and methods. (See pp. 24 to 29.)

## ANTE MORTEM AND POST MORTEM INSPECTIONS AND CONTROLS OVER CONDEMNED AND INEDIBLE PRODUCTS

Ante mortem and post mortem inspections and controls to assure that condemned and inedible products are not sold as edible products were generally adequate. However, some deficiencies existed in plant facilities and equipment and in inspection procedures. (See pp. 31 to 40.)

Service inspectors devote a significant portion of post mortem inspection time to examining meat carcasses for dressing defects (the presence of contamination or unwholesome or inedible parts) that plants failed to remove. The plants, not the inspectors, should be responsible for checking for dressing defects. (See pp. 37 and 38.)

## INSPECTION STAFF SHORTAGES

During 1980 from 6 percent to 10 percent of the Service's slaughter inspection positions were unfilled. As of February 21, 1981, the Service had a shortage of about 7 percent among its authorized 5,995 slaughter plant inspectors. The shortages were due to hiring and budget restrictions.

Because of these shortages, certain inspection responsibilities had been neglected, including supervising line inspectors, performing acceptance tests, monitoring plant conditions and operations, and inspecting processing departments. (See pp. 42 to 45.)

### BETTER MONITORING NEEDED

The deficiencies at the randomly selected slaughter plants show that Service supervisors need to better monitor plant and inspection staff compliance with program requirements. One problem is the lack of adequate guidance to supervisors as to what constitutes an acceptable level of compliance. (See pp. 47 to 50.)

### RECOMMENDATIONS TO THE SECRETARY OF AGRICULTURE

To better assure that meat and poultry plants produce only wholesome and unadulterated products, the Secretary should direct the Service, among other things, to:

--Strengthen its enforcement of sanitation requirements. (See p. 18.)

--Require plant managers to fulfill their responsibilities for operating and maintaining plants in a sanitary manner through a system of financial disincentives. Imposing some disincentives, such as levying fines, would require the Secretary to obtain legislative authority. (See pp. 18 and 19.)

--Initiate a special one-time effort to identify and correct water system deficiencies and take action to prevent recurrences. (See p. 23.)

--Revise, and require that Service inspection staff follow, procedures governing the quality acceptance testing program. (See p. 30.)

--Make improvements governing inspection of edible and inedible meat and poultry products. (See pp. 40 and 41.)

--Take actions to assure more effective monitoring of meat and poultry inspection activity. (See p. 51.)

AGENCY COMMENTS

Department of Agriculture officials who provided oral comments on a draft of this report expressed concern about whether a system of financial disincentives for plants not complying with inspection requirements could be equitably administered and whether such a system could be effective. GAO believes that the system could be equitably administered if done at a high level, such as by regional directors, and that it could provide an effective enforcement tool, short of withdrawing inspection, to deal with plants having serious or regular sanitation problems. (See p. 19.)

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## ABBREVIATIONS

| | |
|---|---|
| FSIS | Food Safety and Inspection Service |
| GAO | General Accounting Office |
| USDA | U.S. Department of Agriculture |

# STATEMENT OF JAMES H. HODGES
# VICE PRESIDENT, AMERICAN MEAT INSTITUTE

# REGARDING FEDERAL MEAT INSPECTION QUALITY AND PRODUCTIVITY ISSUES

BEFORE THE COMMITTEE ON GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT
U.S. SENATE

MAY 15, 1987

Mr. Chairman:

The American Meat Institute (AMI) is the national trade association that represents all segments of the meat packing and processing industry. I am a vice president of the AMI and work with several of our key membership committees including the Meat Inspection Committee. Prior to joining AMI in 1983 I worked in the Meat and Poultry Inspection Technical Services program at USDA. From this perspective I welcome the opportunity to provide this statement for the record on issues of central importance to our industry -- inspection quality and productivity, microbiological safety and consumer education.

## MEAT INSPECTION QUALITY AND PRODUCTIVITY

The meat industry is the most intensively and comprehensively regulated component of the U.S. food supply. Federal meat inspection is comprised of several programs -- plant and equipment approval, product labeling approval, antemortem and post mortem slaughter inspection as well as processing inspection -- to assure that all meat and meat food products comply with sanitation and product standards requirements. To carry out these programs FSIS employs nearly 8000 field personnel in approximately 7200 federally inspected meat and poutry establishments.

This public investment in inspection has yielded positive results. The 1986 National Academy of Sciences study on the scientific basis of the nation's meat and poultry inspection program reported the program has generally been effective in protecting public health. The NAS committee did make certain recommendations aimed at developing programs to ensure that the inspection system continues to efficiently protect the public health.

An AMI task force reviewed the study and provided its recommendations to the Department. The task force agreed with NAS that solutions to many of the most significant public health issues lie in the use of improved scientific evaluation and advanced technologies and not simply the addition of more inspectors. I have provided the Committee with a copy of the task face report and would request that is be made of part of the permanent record of this hearing.

Progress has been made toward improvement of meat inspection efficiency though passage of the Processed Products Improvement Act of 1986. The Act recognizes that it is time for the Department to target inspection resources toward those areas which have the greatest public health significance. We recognize, however, that more work can and should be done in this area.

In February, 1986 AMI appointed a Task Force for Meat Inspection Efficiency for the purpose of identifying specific areas in which to modernize and reduce the cost of the current USDA meat inspection program without jeopardizing its effectiveness. Their recommendations were presented to the USDA in September 1986. Many of the recommendations in the processing area were consistent with what is now being implemented as the Processed Products Improvement Act of 1986.

However, many recommendations in the slaughter, administration and support areas have not been adopted by UDSA. The Task Force estimates that full implementation of its recommendations could, based upon current funding levels, save the agency approximately fify to sixty million dollars per year. Most critically, AMI is convinced that such savings can be realized without in any way jeopardizing the agency's public health capabilities. I have provided the Committee with a copy of the task force report and USDA's response and would request that they also be made a part of the permanent record of this hearing.

## MICROBIOLOGICAL CONTROL AND CONSUMER EDUCATION

In the area of microbiological control, proper handling of foods during manufacturing, transportation, storage and final preparation remain our best and first line of defense against food-borne illness. Microorganisms are ubiquitous in the environment. In raw meat and poultry products microbes can multiply, spread and perhaps cross-contaminate other foods in food-service establishments and homes unless products are properly handled and cooked. AMI published its own consumer education brochure, "The U.S. Meat Supply -- Your Safety Assured" to address these issues. The USDA has a similar publication, "The Safe Food Book -- Your Kitchen Guide." We urge continuation of governmental and private sector educational efforts to emphasize the fact that everyone has a responsibility to prevent food-borne illnesses.

Even though microbiological hazards can be prevented by diligent food handling and preparation practices, the meat industry is aggressively addressing the issue through a comprehensive research and education program. The problem is complex and no one solution is apparent. Further studies are necessary to better define critical food processing steps where the movement of microorganisms through the food chain can be reduced.

Our goal is to reduce microbial contaminants in meat products by identifying improved control procedures and sanitary handling practices. AMI has commissioned a multiphase research project that will identify the best available control technologies.

Currently, we are reviewing and summarizing procedures to prevent or remove carcass contaminants. Industry, academia and recognized consulting firms are participating in this effort.

After the review process is complete, the most effective technologies for microbial control will be evaluated under laboratory control conditions. The effectiveness of various control procedures, such as improved carcass washing and post-mortem handling methods, will be evaluated. Procedures that prove effective will then be pilot tested. The next step will be testing the procedures under commercial conditions.

Finally, good manufacturing practices for controlling microorganisms in meat products will be published for broad dissemination and use by the meat industry. USDA has endorsed AMI's initiative. We encourage their active participation and support.

Mr. Chairman, the industry is well aware of its responsibility and continues to work toward greater efficiency while providing the consuming public with a safe, wholesome meat supply. We are pursuing a strong working relationship with the Department to accomplish these goals. The meat industry's future depends on it.

Once again, I appreciate the opportunity to provide this statement for the Committee.

Attachments

JHH:kel

# A REVIEW OF THE NAS STUDY ON THE SCIENTIFIC BASIS FOR THE NATIONS MEAT AND POULTRY INSPECTION PROGRAM.

Prepared By

Special Task Force
American Meat Institute
Arlington, VA
October 10, 1985

## OVERVIEW OF NAS STUDY

The National Academy of Science (NAS), received a request from the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA), to evaluate the scientific basis of current systems for inspecting meat and poultry in the U.S.. A committee appointed by the Food and Nutrition Board of the Academy completed their study in July 1985.

This request was made, in part, because FSIS is actively addressing various measures for accommodating changes away from traditional inspection methods (unchanged for nearly 70 years). An FSIS management system that provides for adaptability and flexibility as impacted by new technologies in Animal Agriculture and the U.S. Meat Industry seems to be appropriate; however, such changes need systematic evaluation relative to public health issues.

NAS was asked to address the following:

o Assess the scientific foundation for USDA's Meat and Poultry Inspection programs to determine its impact on the quality, quantity and health of livestock and on the character and degree of various risks to human health;

o Make a comprehensive analysis of different inspection strategies, including comparative risk assessment, to predict their impact on public health; and

o Make recommendations based on new developments in biological research and technology and in the inspection program to further enhance its effectiveness and efficiency while maintaining or improving the current degree of public health protection.

The NAS Study generally concluded that:

o Consumers have a high level of confidence that meat and poultry products are safe and wholesome.

o New programs and procedures instituted by FSIS in slaughter and processing areas are not likely to reduce those aspects related to public health protection, however, such changes need to be well defined in terms of relevent public health issues

o There is a very positive willingness to change at USDA/FSIS in order to provide short and long range policy management systems that accommodate new technologies.

In order to effectively implement these conclusions, the NAS Study recommended that:

o Personnel skills within FSIS management should reflect an interdisciplinary concept such that no one profession (discipline) is dominate.

o Policies and programs should more adequately reflect what is and is not "critical" in terms of public health risk.

o These programs should clearly focus on identifying the source and risk of potential problems and establishment of management systems for prevention at the source.

## OVERVIEW - AMI TASK FORCE

Because of its committment to active participation and positive leadership regarding governmental policies, the American Meat Institute established a special Task Force (August 1985) to review the NAS Study.

General objectives of this Task Force were to emphasize those aspects of the NAS Study that would benefit the Industry and its consumers by addition to or deletion of inspection strategies, policies, programs and operations. Specifically, the Task Force was to provide inputs that would assist in establishing a more clear perspective and rationale for prioritizing key issues identified in the NAS Study. It should be emphasized that these objectives focus on issues that would not reduce the very positive public health aspects of current and future FSIS programs as outlined in the NAS Study.

The subsequent AMI Task Force report is organized into a series of key issues with narrative statements. These issues are grouped into broad-based categories reflecting policies, programs and operations.

## SUMMARY OF KEY ISSUES

A. The AMI Task Force concurs with the NAS Study that in general consumers have a high level of confidence that meat and poultry products are safe and wholesome. This should be clearly recognized and reflects credit to FSIS, Animal Agriculture and the Industry for their positive contribution to safety and wholesomeness of meat and poultry products.

B. We encourage FSIS to redefine inspection criteria on the basis of what is and is not critical from a public health viewpoint. The results of clearly defining what is and is not critical, via use of hazard/risk concepts, should be the deletion of obsolete requirements for slaughter and process inspection. Such efforts should be tied into a policy review and disposition management system that effectively deletes and updates requirements rather than layering in new requirements in addition to ones which may be obsolete or no longer applicable.

C. All efforts to reduce potential public health hazards, from chemical and biological agents, should clearly be directed to the source of entry (farm, ranch, feedlot). Risk assessment by a grouping of similar agents would be useful in pin-pointing specific problem areas. Identification of "hot spots" at the source with corrective action would, in our judgement, substantially reduce potential hazards. FSIS should be designated as the lead Agency for surveillance in such a manner that the present interagency involvement is better utilized and more clearly defined. There is no need to create a new agency to address this issue.

D. A system of identifying animals offered for slaughter is absolutely essential for any program designed to eliminate potential public health risks associated with chemical or biological agents. In this regard, the NAS Study supports an AMI petition to USDA for mandatory identification of all swine offered for slaughter. Other types of livestock that are raised in less concentrated units than swine should also be subject to an identification system. Perhaps a required certification method by lot or common management group would suffice as a trace-back mechanism to the source for these kinds of livestock. It is a common practice in the industry to identify animals in lots or groups according to the source of purchase. For animals that change ownership several times through complex marketing channels, lot or group certification methods for identifying these kinds of livestock may be appropriate.

E. To support new methods, systems and technologies for compliance-based versus traditional inspection, we encourage FSIS to establish a clearly defined and on-going research mission. We endorse the NAS Study which suggests that a regulatory agency such as FSIS should have a research mission and budgetary support. This need could be accommodated within existing USDA facilities and personnel.

F. To accommodate changes in technologies, methods and systems of inspection, we encourage FSIS to upgrade personnel skills and to reflect interdisciplinary principles such that no one specific discipline dominates the mix of personnel.

PUBLIC HEALTH HAZARDS FROM BIOLOGICAL AND CHEMICAL AGENTS

A. We encourage the continuing consumer education efforts of FSIS and Industry to develop and disseminate practical information regarding proper handling, storage and end user preparation of meat and poultry products. A majority of food-borne illness are directly associated with improper heat treatment and/or temperature control of products by ultimate users.

B. Rapid diagnostic technologies that are economical to use in a pooled/lot sampling system should be a major focus of the FSIS research mission. Diagnostic technologies from human medicine may be adapted to high speed line operations to automate some aspects of current ante and postmortem inspection requirements performed by "hands on" techniques.

C. We encourage the development of new technologies for decontamination during slaughter/dressing operations. These technologies should not be restricted by labeling and inspection procedures and they should apply to carcasses as well as parts (subprimal cuts, edible offal, etc.).

D. FSIS should clearly become the lead agency for surveillance of potential biological and chemical residues. Focus of surveillance should be through an animal identification and trace-back system to the source of livestock using group risk assessment technologies. For example:

1. Require producers of livestock to identify that the animals marketed have been raised in compliance with all applicable laws and regulations relative to feed ingredients, therapeutic drugs and similar agents.

2. These animals would be identified at the point of sale (slaughterer, feedlot, order buyer, auction yards) according to lot or group reflecting common feed, veterinary treatment or exposure to other chemical agents.

3. Continue the surveillance of animals via the existing National Residue Program (NRP) with trace-back to source using animal identification documents.

Increase sampling rates and frequency in a specific area when problems are encountered. The trace-back system must traverse federal, state and local policies.

Any system for surveillance requires that some kind of "group risk assessment" be used to define what to monitor. Analytical methods have the capability to determine presence or absence of many chemicals, but that capability does not necessarily mean that all chemicals are hazards at levels detected. After all, the human body is nothing more than a "sea of chemicals surrounded by skin".

E. We encourage FSIS to use their scientists more actively in professional associations, research publications and teaching programs that relate to biological and chemical hazards. Agriculture schools are also encouraged to include such materials in their curriculum development programs for livestock and poultry husbandry.

## SLAUGHTER INSPECTION

A. We concur with the NAS Study that FSIS instituted changes in slaughter inspection towards compliance-based methods have not reduced those aspects related to public health. These changes have been based on informal risk assessment and hazard analysis/critical control point concepts. Although these concepts may need to be formalized, they have been effectively used as a valid and rational scientific basis for changing policies. They are commonly practiced by the Industry as well as FSIS. Any change should be carefully scrutinized with FSIS objectives clearly in mind.

B. Future changes in slaughter inspection (ante and postmortem) should be tailored to differences among individual plant needs based on species, age and type of animals slaughtered.

C. The NAS Study strongly suggests that present methods of antemortem inspection could be replaced with a sampling program of varying intensity. We also feel that this approach or one that takes into account the risk from type of livestock slaughtered should be given consideration. For example, the 0.3% of rejected animals may well be concentrated in those that are very mature chronologically. Plants which slaughter these kinds of animals may indeed require more intensive antemortem inspection than those that slaughter younger animals.

D. We agree with the NAS Study that inspection requirements not directly associated with public health hazards need not be conducted on the slaughter floor. Aesthetic conditions (abnormal skin condition of swine, arthritic joints, bruises, dislocated joints, broken bones, etc.) have little or no affect on public health risk. Their removal would often be more efficient during subsequent cutting operations. A compliance-based system similar to AQL that traverses slaughter and carcass fabrication would certainly enhance the concept of tailoring inspection requirements to specific plant needs. This should result in more effective and efficient use of manpower, reduce duplication of effort and not affect public health risk of meat and poultry inspection.

E. Disposition guidelines for slaughter inspection needs refinement of definition. The NAS Study recognized this and our Task Force concurs. Further, a comprehensive study should be conducted of the public health risks associated with lesions and other chronic conditions requiring inspection under current policies. It may be that we are spending inordinate amounts of time looking for things that have no apparent human health risk.

F. We encourage the meat industry and FSIS to openly experiment with new slaughter/dressing methods which reduce contamination. These experiments and resulting technologies should not be hampered by restrictive labeling policies that may be counter-productive to use of new technologies.

## PROCESSING INSPECTION

A. We agree with the NAS Study which encourages compliance-based processing inspection tailored to specific needs of the plant, products produced, location and other variables. Continuous on-line inspection by FSIS is not required to ensure food safety in meat and poultry plants that have identified and are monitoring critical control points. Variable time auditing and inspection is the recommended approach.

B. FSIS has recognized the willingness to change from traditional process inspection to voluntary compliance-based systems like TQC. Creation of a Processed Products Inspection Division, utilization of the FSIS training center to upgrade skills of present personnel and positive results to date, strongly suggest that compliance-based process inspection is the preferred method.

C. We encourage the open door policy between FSIS and the Industry. Contrary to the NAS Study which suggested that this policy had detrimental results, we feel very strongly that this close communication network allows FSIS to be realistically involved with daily problems that translate into solid long range plans. The result of such open communication is a federal agency that is far more effective in its mission than many other agencies.

D. We concur with the NAS Study which recognized that state of the art temperature monitoring instrumentation be used to replace manual procedures where less than 100% inspection is provided. These technologies should be a vital part of process control systems that fit well within compliance-based inspection auditing systems.

## HAZARD ANALYSIS CRITICAL CONTROL POINT (HACCP) APPROACH TO FOOD SAFETY

A. We agree with the NAS Study that encourages FSIS to apply HACCP concepts to each and every step in plant operations and all types of enterprises involved in production, processing, storage and ultimate utilization of meat and poultry products. Hazards should clearly be defined as those associated with public health risk.

B. By focusing on hazards and control points related to public health concerns of biological and chemical agents over those which are aesthetic and not related to public health, FSIS could attain the highest degree of public health protection within available resources.

C. Continuous inspection is not needed to ensure food safety in meat and poultry processing plants in which HACCP have been identified and monitored by a qualified staff.

D. The identification of critical control points is the very foundation for construction of any modern quality control system. It has been used by FSIS to establish quality control inspection plans. One problem with traditional inspection is that an inordinate amount of time and effort is often spent on relatively minor deficiencies which have no relation to public health risk or economic adulteration. By broadening this concept to rank control points as critical, and for what specific reason, both FSIS and the Industry could direct available resources to the most important problem areas.

## NEW TECHNOLOGIES FOR MEAT AND POULTRY INSPECTION

A. We concur with the NAS Study to encourage the use of economical and efficient automated laboratory methodologies at all USDA and contract laboratories. Active participation in duplicate analyses and check sample programs is also encouraged. Computer-linked feedback of analyses to inspection and plant personnel who are operating under a complianced-based system, would lead to improved communication and corrective actions.

B. We encourage FSIS to develop a well defined research mission. Rapid and economical diagnostic methods for detection of potential public health hazards is the very foundation for compliance-based inspection which lends itself to animal certification and trace-back to the source.

C. USDA and FSIS scientists should be moved away from the desk and paper work towards more active participation in professional meetings and industry seminars. Industry should be encouraged to better utilize FSIS and USDA scientific expertise.

## AMI TASK FORCE MEMBERS

Robert Terrell (Chairman) Vice President, Research and Technical Services, Kahn's and Company, Cincinnati, Ohio.

Donald Paul, Vice President, Quality Assurance and Regulatory Affairs, Oscar Mayer Foods Corp., Madison, Wisconsin.

Ross Jabaay, Director, Technical Services, Sugardale Foods, Massilon, Ohio.

Alan Oser, Director, Quality Assurance, Hatfield Packing Company, Hatfield, Pennsylvania.

Scott Goltry, Director, Quality Assurance, Ohse Meat Products Inc., Topeka, Kansas.

Rod Bowling, Vice President, Research and Development, Monfort of Colorado, Greely, Colorado.

George Cocoma, Vice President, Research and Technical Services, Wilson Foods Corp., Oklahoma City, Olkahoma.

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# AMERICAN MEAT INSTITUTE
# Meat Inspection Efficiency
# Task Force Report

September [illegible], [illegible]

## AMERICAN MEAT INSTITUTE

## TASK FORCE FOR MEAT INSPECTION EFFICIENCY

| | |
|---|---|
| Charles Cook<br>Chairman | Oscar Mayer Foods Corporation |
| Murray Alpert | Herman Alpert and Company, Inc. |
| Bill Bond | E. A. Miller Inc. |
| Rod Bowling | Monfort of Colorado |
| George Cocoma | Wilson Foods Corporation |
| Lewis Fetterman, Jr. | The Lundy Packing Company |
| Scott Goltry | Ohse Meat Products |
| William Hunter | Geo. A. Hormel & Company |
| Jim Lochner | IBP, Incorporated |
| Henry Morris | Smithfield Foods, Inc. |
| Ruble Smith | Lay Packing Company |
| Gary Turpin | Armour Food Companies |

## EXECUTIVE SUMMARY

In February, 1986 the American Meat Institute appointed a Task Force for Meat Inspection Efficiency for the purpose of identifying specific areas in which to modernize and reduce the cost of the current USDA meat and poultry inspection program without jeopardizing its effectiveness. The group, chaired by Dr. Charles Cook (Oscar Mayer Foods Corp.), included representatives of both the processing and slaughtering segments of the industry and a mixture of both large and small companies. In an effort to accomplish its goal of comprehensively reviewing the programs currently maintained by the Food Safety and Inspection Service (FSIS) and recommending cost-effective changes, the Task Force organized its activities in three basic areas - slaughter inspection, processing inspection and administration and support programs.

In the slaughter area, the thrust of the recommendations supports the shifting of resources toward areas that pose the most significant health risks. Greater utilization of plant personnel for certain activities and deployment of new techniques such as comprehensive animal identification are also endorsed.

In the processing area, the Task Force recommendations are consistent with pending legislation which would give the Secretary of Agriculture greater discretion to allocate resources based upon the nature of an establishment's in-plant controls, its compliance history, and the nature and frequency of its processing operations.

In the administration and support areas, the Task Force identified a number of areas in which the agency could recognize significant savings by eliminating unnecessary overhead and layers of supervision, eliminating duplicative functions, and by curtailing functions which bear little or no relationship to the program's overall public health focus.

The Task Force estimates that full adoption and implementation of its recommendations could, based upon current funding levels, save the agency approximately fifty to sixty million dollars per year. Most critically, it is convinced that such savings can be realized without in any way jeopardizing the agency's public health capabilities. To the contrary, the Task Force is convinced that a serious Departmental effort to clarify FSIS' public health mission by implementing such measures will lead to a stronger, more effective meat and poultry inspection program.

## BACKGROUND FOR TASK FORCE REPORT

USDA's Meat Inspection Program has protected the American consumer and fostered confidence in the American meat supply since it was first enacted in 1906. While the program has served its purpose exceedingly well, it is now time to harmonize and update the design and implementation of the program consistent with modern processing and inspection technology.

The 1906 Meat Act was passed as remedial legislation to ensure that all slaughtering and processing of meat products complied with fundamental health and sanitation principles. The Act's purpose was accomplished by placing a governmental inspector in all establishments and requiring the visual examination of all livestock, carcasses, parts and finished products, as well as facilities and equipment to prevent the introduction of adulterated or misbranded meat into interstate commerce. A labor intensive inspection program based heavily on aesthetic controls was appropriate in 1906 when sanitation and disease control were in their infancy and slaughtering and processing involved relatively simple operations such as cutting, boning, and rendering. However, new processing and inspectional technologies, coupled with significant advancements in disease identification and control, as well as sanitation, now necessitate a number of basic changes in the inspection system.

New processing controls have been introduced which allow the plant inspector to learn more about product wholesomenness than could ever be obtained from visual examination. However, in conjunction with these advancements are new health concerns. The new manner of raising livestock with special feeds, the use of pesticides on crops, and more sophisticated raw, canned, cured, dried, fermented, and frozen products have led to new questions concerning microbiological and residue contaminants. These new concerns and challenges cannot be fully met with visual inspection.

While technology may have created new problems, it also provides the means for addressing them. In 1985, the National Academy of Sciences (NAS) reviewed current meat and poultry inspection techniques and published its Report — Meat and Poultry Inspection — The Scientific Basis of the Nation's Program which included recommendations on how the system can be improved. In sum, the NAS recommended modernization of the system with new focus on a risk-based allocation of resources and a shift from visual to scientific-based inspection.

Budget pressures have become another major impetus for change. The passage and initial application of the Deficit Reduction Act of 1985 (Gramm/Rudman/Hollings) has placed the inspection program and the industry it regulates under severe strains. Both groups spent much of 1986 under a continuing cloud of uncertainity as to whether day to day operating functions could be maintained. In addition, despite the overwhelming consensus of industry and consumer interests alike in opposition to such a proposal, the administration has chosen to persist in its efforts to fund this public health program with so called "user fees."

In this environment the AMI Task Force for meat inspection efficiency was established in February, 1986. Its specific mission was to comprehensively review the purpose, organization and procedures of the Federal Meat Inspection Program and to recommend cost effective changes consistent with public health concerns. USDA's cooperation was solicited and given throughout the effort, and in addition, the group consulted with a number of experts with relevant scientific experience and backgrounds in the inspection program.

In developing its recommendations, the Task Force relied heavily upon the NAS report. Its recommendations are fully consistent with that document and, if implemented, would advance the overall goal of more efficiently dealing with legitimate public health issues.

The proper maintenance of such a program obviously dictates a commitment of a reasonable amount of resources in areas such as administration and program support. In this regard, representatives of FSIS have frequently maintained that the amount of expense in these areas relative to other program functions is comparatively low.

The Task Force took these factors into account in its review of these areas of agency activity. Nevertheless, it is clear that FSIS should not and can not isolate itself from the need to achieve further savings in those areas. It is clear that program changes in the inspection areas themselves will necessarily dictate some degree of reorganization in the administrative area. Second, as in any large organization, various areas of activity can be identified which are somewhat outmoded, inefficient, or only marginally related to basic agency functions. Third, there may be functions which can be more effectively centralized at a departmental level.

It should be emphasized that a "business as usual" approach can not be adopted in any review of any inspection function. In the current environment, the program simply cannot afford to maintain functions or levels of staffing which might be considered "a good thing to have" unless such resources are clearly a matter of public necessity and are essential to the basic functioning of the inspection program.

In such an environment, industry and government must work together to create a program which can be fairly characterized as streamlined, fully cost effective, and fully oriented towards an essential goal - the protection of public health. The Task Force believes that the adoption of its recommendations will accomplish these ends in a manner which in no way jeopardizes the effectiveness or integrity of the meat inspection program and preserves consumer confidence in our industry and its products.

## *RECOMMENDATION #1:*

*The Task Force recommends FSIS inspection resources be focused on those products, processes, and contaminants that pose the most significant health risk. Greater emphasis should be placed on microbiological and residue control, rather than on organoleptic examination.*

**Rationale:**

Current meat inspection procedures rely primarily on sight, smell, and touch to identify abnormalities or diseases in animals or carcasses. This results in a labor intensive program limited by the availability, proximity, and capabilities of a particular inspector.

While the current program adequately ensures the meat supply is not adulterated by diseases or defects which can be detected by sensory examination, the system must be redesigned to meet current needs. Modern animal production and processing techniques combined with advanced methods of detection create and identify new potential risks — microbiological contamination or chemical residues.

Meat inspection resources must be refocused to deal with modern public health issues. As the National Academy of Sciences recommended in its 1985 Report on Meat and Poultry Inspection, "A risk-based allocation of resources, supported by modern technology, and a systematic evaluation of the program, would be valuable." Report at 3. The AMI Task Force agrees with this approach and urges FSIS to modernize its inspection techniques and shift resources to where they can best protect the public health.

Improved production, slaughter, and processing technology provide significant opportunities to focus meat inspection resources where they are most needed to protect public health. Available analytical tests could provide useful tools to control microbiological and residue contaminants. The development and implementation of rapid detection methods for microbiological and residue contaminants should be encouraged. FSIS should begin to shift from the current labor intensive aesthetic inspection to one that relies much more heavily on analytical test methods.

## *RECOMMENDATION #2:*

*The Task Force recommends mandatory identification of slaughter animals in order to identify and control disease conditions or residue violations at the source point.*

**Rationale:**

Under the current meat inspection program, it is difficult and frequently impossible for FSIS or the slaughterer to traceback diseased or contaminated livestock to point of origin. Given current distribution practices, livestock can change hands several times after leaving the farm before arriving at the slaughter plant. The problem is further exacerbated when the livestock are transferred to feed lots.

An identification of disease conditions or residue violations without correcting the problem at its source needlessly consumes FSIS inspection resources. The ability to traceback an animal to its point of production is crucial to a modern inspection system. Disease conditions such as trichinae and unsafe chemical residue levels can only be corrected by identifying the source of the problem. Eradication and prevention efforts must be focused on producers. This necessitates identification of animals before they enter the slaughter plant. With animal identification, FSIS laboratory and inspection resources could be concentrated where the microbial and residue problems originate.

In its report, the NAS identified as an essential element of an optimal meat inspection program "a traceback recall system from final sale to producer for all animals and products destined to enter the human food supply. This is essential for the generation of data that are important to the prevention of disease in humans and that will enable processors and the government to solve problems in the food chain." Report at 10.

The National Pork Producers Council has already endorsed AMI's proposal for a mandatory swine identification program at the point of origin. AMI urges FSIS to work with other agencies such as the Food and Drug Administration, Animal Plant and Health Inspection Service, and the Packers and Stockyards Administration to establish a unified approach to this problem.

FSIS currently has the authority to require all livestock entering the slaughter plant to bear appropriate identification as to origin. See Section 5 of the FMIA, (21 U.S.C. 605).

*RECOMMENDATION #3:*

*The Task Force recommends that FSIS slaughter inspection personnel management be improved through:*
*(a) use of FSIS certified, part-time trained veterinarians, and*
*(b) more efficient scheduling of slaughter operations in low volume plants.*

Rationale:

Currently there are numerous low-volume slaughter establishments, often located in less populated areas, which do not need the full-time services of an FSIS veterinarian to inspect slaughtering operations. Frequently these establishments slaughter only certain days of the week, and/or only a small number of livestock at a time. Currently, full-time FSIS veterinarians must travel from one point to another resulting in a substantial amount of non-productive time.

This non-productive time could be greatly reduced. First, agency trained and certified part-time veterinarians currently residing in remote areas could more efficiently inspect low volume plants and fulfill the requirements of the FMIA. Second, plants with less than full-time slaughter activity could be asked to schedule slaughter operations to allow for more efficient use of inspection time, and adopt procedures such as holding carcasses and viscera for inspection after slaughter is complete. Cross-utilization of veterinarians and food inspectors for certain activities could also provide more efficient use of personnel resources. Full utilization of these techniques is well within the current statutory authority.

The Secretary is empowered under Section 3 of the FMIA, (21 U.S.C. 603), to appoint inspectors. This allows the appointment of part-time veterinarians. Also, the Secretary is given the authority to specify how the inspection is to be conducted. Section 4 of the FMIA, (21 U.S.C. 604) allows the act of slaughtering to be done without an inspector present, provided the carcasses and viscera are retained until the inspector passes on the meat.

***RECOMMENDATION #4:***

*The Task Force recommends that all antemortem inspection activities be performed and documented by the plant with FSIS monitoring. The intensity of FSIS monitoring should be dependent on type (health, status, age) of animals routinely slaughtered by the particular establishment.*

**Rationale:**

Antemortem inspection is presently conducted by the FSIS inspector exclusively. This examination is designed to segregate and isolate animals suspected of being diseased. In conjunction with the FSIS inspection, most companies also inspect livestock when it arrives at the establishment.

Since both the FSIS and the company conduct antemortem inspections, it would be more efficient if the company assumes primary responsibility under an approved quality control program. The approved program would describe in detail how the establishment would perform the inspection. Coupled with an effective animal identification program, shifting primary responsibility for antemortem inspection to the plant can effectively free-up the inspector for other duties, as well as improve the identification and isolation of diseased animals. Antemortem inspection would still be under the supervision of FSIS, subject to periodic checks; the intensity of such monitoring would depend on the type of animals slaughtered and the record of the plant. For example, plants routinely slaughtering young healthy animals should require less FSIS monitoring than plants slaughtering mature animals.

The proposed shift in operational responsibility would not jeopardize the public health. Since 1917, an average of 99.7% of inspected animals have passed antemortem inspection. NAS Report at 81. Furthermore, extra monitoring depending on the type of animal would be a logical risk-based system.

This "patrol" inspection for antemortem would be in keeping with the Federal Meat Inspection Act. While Section 3 of the Act requires antemortem inspection of all livestock, FSIS in the past has interpreted the word 'all' when used in Section 6 of the Act, dealing with processing inspection, as only requiring the daily presence of an inspector. Accordingly, FSIS could, consistent with the language and purpose of the Act, utilize a "patrol" system of antemortem inspection by applying the same interpretation employed for processing.

***RECOMMENDATION #5:***

*The Task Force recommends that new slaughter inspection procedures be implemented whereby FSIS inspectors concentrate on pathological determinations. Aesthetic dressing defects posing* *no public health risk should be controlled by plant personnel and monitored by FSIS through established finished product standards.*

Rationale:

As with antemortem inspection, all aspects of postmortem inspection are currently the exclusive province of the FSIS veterinarian and lay inspector. These inspections include examinations for cosmetic or dressing defects, as well as inspections for abnormalities or disease conditions.

The Task Force recommendation seeks to focus the FSIS inspector's attention on potential health and safety defects, rather than on aesthetic concerns. For example, the final rail inspection predominantly identifies only cosmetic, dressing defects. Therefore, properly trained and certified plant personnel could effectively remove these defects. Special training and certification of plant inspectors could be required. Once again, this recommended change would be in keeping with the NAS recommendations.

In addition to the Task Force recommendation above, FSIS should develop improved inspection systems which would integrate a risk-based approach. Primarily, the FSIS system should concentrate its slaughter inspection resources towards the type of animals in which the disease conditions are most likely to occur. Most slaughter inspection resources are devoted to inspecting normal animals. Less than 1% of the animals slaughtered show disease conditions, with most of the problems concentrated in mature animals. Animal identification and traceback would help identify those production sites from which problems are more likely to occur. While FSIS should continue to make final disposition of each animal, improved slaughter inspection procedures which would integrate company control procedures offer potential savings.

These revisions are within the current authority of the Secretary; indeed Section 4 of the Act specifically grants the Secretary the authority to determine the type of examination given in postmortem inspection. (21 U.S.C. 604).

*RECOMMENDATION #5:*

*The Task Force recommends that all pre-operation sanitation inspections be performed by the plant with FSIS monitoring.*

Rationale:

Prior to commencing operations, all inspected establishments are inspected by FSIS personnel to ensure proper plant sanitation. Virtually all plants schedule a pre-operational sanitation shift and conduct their own inspection.

To enhance efficiency and eliminate redundant inspection activities, this function could be assigned to the establishment itself, provided an FSIS approved control program is adopted. Such a system, with inspection monitoring, would achieve the same results as the current system. Furthermore, microbiological monitoring programs are currently included in many plants and provide far greater assurance of sanitary plant conditions than physical inspections alone.

Under Section 8 of the Act, (21 U.S.C. 608), the Secretary can appoint any "expert in sanitation, or ... other competent inspector" to conduct the plant sanitation inspections. The approval of a control program, which would specify those responsible for pre-operational sanitation, would be consistent with this section of the Act.

*__RECOMMENDATION #7:__*

*The Task Force recommends FSIS establish monitoring levels in processing establishments commensurate with the nature of the operation, the establishment's compliance history, and the adequacy of plant records to ensure control of critical points in the process.*

**__Rationale:__**

In processing, as in slaughtering, the principal inspection tool has been the senses of the inspector, primarily sight and smell. However, as processing practices and techniques have evolved and become more sophisticated, human senses do not always suffice. With new processing technologies have come new processing control procedures which identify and test critical control points throughout the process. The information generated by these controls can tell more about the wholesomeness of a particular product than does the data now readily available to the inplant inspector.

The inspection system work plant (ISWP), a revised method by which FSIS expects to conduct processing inspection, provides an objective basis for inspecting processing plants. The plan can be concentrated at points where inspection is most needed. FSIS monitoring of areas that show continued compliance can be significantly reduced. Processing inspection efficiency could be increased.

This Task Force recommendation is in keeping with the NAS optimal meat program which would make maximum use of plant personnel and company data in monitoring critical control points. NAS Report at 10. Furthermore, as the NAS noted, "These plant initiated quality control programs, which frequently exceed FSIS guidelines, merit praise and should be encouraged." NAS Report at 118.

*__RECOMMENDATION #8:__*

*The Task Force recommends legislative or administrative changes to permit expansion of "patrol" inspection concept in processing plants.*

**__Rationale:__**

The concept of "patrol" inspection is not new. Ever since the enactment of the Federal Meat Inspection Act, USDA has interpreted the law as requiring a daily visit to the establishment by the inspector, not continuous surveillance. It is common practice for one inspector to be responsible for two or more plants on his or her "circuit." The intensity and frequency of "patrol" inspection is dependent on the nature of the processing operation, the adequacy of internal controls, and the compliance record of the establishment.

Products produced in certain types of processing operations, such as meat-topped pizza or frozen entrees, may require a lesser degree of inspection monitoring. Other operations, such as production of ready-to-eat items, may require a greater degree of control. Operations that have carefully documented control of their processes, through hazard analyses of critical control points, may not require the level of inspection currently provided.

FSIS should give serious consideration to expanding the number of plants which can properly operate under "patrol" inspection. Further, FSIS should, where appropriate, reduce "patrol" inspection to less than once per day.

One of the key characteristics of the optimal meat inspection program identified by the NAS is "an inspection system with different levels of intensity, reflecting the degree of public health risks at various stages in the process, the reliability of the monitoring system, the compliance history of the slaughter-house or processing plant, and the special needs of the intended consumer (e.g., military personnel or school children)." NAS Report at 10. The Task Force urges FSIS to modify its "patrol" inspection program pursuant to these guidelines.

Public health protection could be greatly enhanced by concentrating inspection activities where they are most needed. Agency resources could be conserved. Consistent with FSIS' current interpretation of the Act, judicial concurrence in that interpretation, and Congressional acquiesence in the "patrol" concept, there is little question but that the current program is legally authorized.

*RECOMMENDATION #9:*

*The Task Force recommends a reevaluation of existing work measurement standards, work rules and personnel scheduling criteria consistent with previously outlined recommendations.*

**Rationale:**

FSIS maintains an ongoing program to develop and implement work measurement standards and work rules for its inspection force. It is self-evident that the implementation of new slaughter and processing procedures will dictate that these standards and rules be reevaluated. The Task Force believes that one of the principal goals of such reevaluations should be the achievement of overall improvements in inspection productivity, and that such a goal is attainable.

Inspection work rules and schedules have simply not kept pace with changes in the industry. To some degree this may reflect the fact that portions of the current collective bargaining agreement between FSIS and the inspectors union excessively restrict the ability of FSIS management to conduct the program in the most efficient possible manner. To the extent that the restrictions hamper industry productivity they should be reviewed, reevaluated, and where appropriate, ammended or eliminated. In this regard the availability and use of relief inspectors should be reevaluated particularly as they relate to the allocation of vacation time throughout the year. Through such an exercise, greater inspection efficiencies could be achieved.

### *RECOMMENDATION #10:*

*The Task Force recommends that the twenty six (26) area FSIS offices be eliminated. Administrative and supervisory functions currently conducted at the area offices should be transferred to the five (5) regional offices which provide liaison support between certain supervisors and the regional office. Twenty six (26) area support positions should be established at the regional level.*

**Rationale:**

The FSIS Area Supervisor occupies a middle point in the inspection management structure. Each inspector in charge (IIC) in a federally inspected establishment reports to a Circuit Supervisor who reports in turn to an Area Supervisor. The twenty six (26) areas are organized into five (5) national regions, with each Area Supervisor reporting to a Regional Director. The Regional Directors in turn report to the FSIS Deputy Administrator for Operations.

The area offices are a fairly recent innovation, having been established in an effort to improve program coordination and administration. Whatever the value of this original idea, the offices do not appear to be performing a critical function at this time. To the contrary, they seem to now occupy a "neither/nor" type position, being too remote from individual establishments to exercise control over day to day decision making, and too far removed from senior levels of the program to assure coordination on a national basis. For these reasons, industry members have frequently been frustrated in their efforts to resolve problems and get definitive answers to questions at the area office level.

Under these circumstances, the agency should capitalize on the opportunity to eliminate unneccessary staff positions, office rental expenses, etc., by eliminating the area offices. The Task Force recognizes that it is not feasible to simply eliminate all of the area positions, since direct supervision between the Circuit Supervisor and Regional Director would be unwieldy and overly burdensome for the Regional Director. Accordingly, it recommends that a new position for each area be established in the regional office to assure proper supervision of circuit supervisors and coordination of their activities.

### *RECOMMENDATION #11:*

*The Task Force recommends that the current prior label approval requirements be eliminated while other control measures to assure labeling accuracy and integrity remain in place. Policy development and audit functions would remain unchanged.*

**Rationale:**

Historically FSIS has maintained a program to require the approval of labels prior to their use on federally inspected products. This process has also included the review and approval of product formulations themselves. Through this mechanism the agency retains a high degree of control over a number of specific aspects of meat and poultry processing.

Legislative authority for this activity is derived from Section 7 of the Federal Meat Inspection Act (21 U.S.C. 607) which authorizes the Secretary to prescribe styles and sizes of type to be used with respect to material required to be incorporated in labeling, refers to marking and labeling which is not falsely misleading which is approved by the Secretary, and authorizes the Secretary to withhold the use of false or misleading labels.

While there has been some legal debate as to the scope of this grant of authority, the Department has recognized that the law does not dictate that its labeling program be conducted in any specific fashion. In fact in recent years, it has taken a number of steps to modify the program. In 1982, it changed its regulations to create a new category of "generically" approved labels and created other categories of labeling which could be approved by the inspector in charge without resort to central Washington approval. A proposal is now pending which will provide even greater latitude for plant generated labeling activity in plants which operate under a Total Quality Control (TQC) systems.

It may be helpful to view prior label approval in its current state as essentially an off-shoot of processing inspection, since this is the area where most labeling issues occur. In this context, the Department appears to have recognized through initiatives like the labeling TQC proposal, that the labeling system must change as the underlying inspection system changes. The upcoming reorientation of processing inspection consistent with both the Task Force's view and pending legislation suggest that now is the time for further change in the label approval area.

The specific requirement of a written authorization from a USDA representative prior to the use of a label should be abandoned. Consistent with their assumption of greater responsibilities in the processing area, inspected establishments should be allowed to maintain their own programs to assure compliance with all labeling requirements.

In adopting such a program, the Department cannot and should not abandon all activities in the standards and labeling areas. To the contrary, it will still need to maintain a staff to provide policy guidance and reactions to specific labeling initiatives as requested by industry. In addition, it should retain its ability to use labeling as an enforcement tool, and take appropriate actions to withdraw labeling in situations where the information being presented is clearly false or misleading.

### *RECOMMENDATION #12:*

*The Task Force recommends a consolidation of all training activities now conducted in the program training division and personnel division. All non-essential training unrelated to the direct inspection mission of the agency should be eliminated.*

**Rationale:**

FSIS must assure that it maintains a viable training program to assure inspection uniformity and efficiency. As the program strives to obtain greater scientific sophistication, a successful performance of this task will become more challenging and more essential.

To assure better coordination of these activities, training programs which are currently conducted in various sections of the agency should be consolidated within one operating unit. The agency's decision to move in the direction of hiring only qualified food technologists for inspection positions presents some additional opportunities for cost savings, since the agency will be relieved from providing some basic science education to many of its new employees. Hopefully these developments can lead to a more streamlined program where the basic scientific expertise of the new employee is simply enhanced and focused upon the specific needs of the inspection program.

Non-essential training that is unrelated to the actual inspection function may provide varying levels of benefit to the agency but much would seem to fall in the category of "sometimes desirable but not necessary." The current financial situation dictates that such activities be eliminated.

***RECOMMENDATION #13:***

*The Task Force recommends that compliance staff functions be restructured to include more effective use of existing field operations personnel.*

**Rationale:**

USDA compliance personnel perform an essential function which should be maintained. While the traditional inspection focus has remained within the four walls of a federal establishment, compliance personnel provide regulatory control over businesses engaged in the distribution of meat products and otherwise monitor meat products in interstate commerce. Many of their activities are conducted in concert with state and local health enforcement personnel.

Over the years a seperate supervisory structure has evolved within this aspect of the program. Separate offices are maintained for compliance officers in charge and all of the inspection regions. This system generates unnecessary expense and may, at times, impede necessary communication between compliance and field operations personnel. The supervision of compliance activities should therefore be reintegrated into the field operations structure. In addition to overhead savings, some duplicative compliance activities, such as functions conducted inside federally inspected plants, could be assumed by USDA field operations personnel as a regular portion of their plant monitoring duties.

***RECOMMENDATION #14:***

*The Task Force recommends that the existing Review and Evaluation staff be eliminated. As necessary, other governmental audit groups could continue to provide the agency with overviews of inspection controls.*

**Rationale.**

The Review and Evaluation staff provides audit reports on the performance of inspection functions and generates other special projects for the agency. It has sometimes been characterized as the administrators' "eyes and ears" in the field. The Task Force believes that such activities should be incorporated within the agency's regular supervisory structure. Use of such special review personnel can over time become something of a crutch which is used as a means of avoiding dealing with line management problems.

The Task Force acknowledges that there may be some limited circumstances under which there is a need for some independent auditing activity. Under these circumstances, however, review and evaluation personnel are not truly independent since they still report to the agency administration. Independent audits should be truly independent and should be conducted by other governmental personnel such as representatives of the Department's Office of Inspector General and the Government Accounting Office.

**RECOMMENDATION #11.**

The Task Force recommends that the personnel division be reorganized to achieve increased operating efficiencies.

**Rationale.**

A large, geographically dispersed organization such as FSIS obviously needs an efficient personnel unit. Some peripheral activities in areas such as employee development and assistance, however, are only marginally related to the basic inspection function. In addition, personnel is an area where there would appear to be particular opportunities for cost savings through more effective use of office automation. Under these circumstances a ten percent (10%) increase in operational efficiencies should be a realistic, achievable goal.

**RECOMMENDATION #12.**

The Task Force recommends that the Planning Office and Policy Office be combined.

**Rationale.**

The current policy and planning offices carry out a variety of staff functions for the agency, such as the review and preparation of regulatory documents, the preparation of special reports, and the coordination of the agency's annual plan. Again, the Task Force recognizes that a commitment of some level of agency resources towards such functions is both appropriate and necessary. It should be noted, however, that the staffing and budget commitment in these areas have increased rather dramatically over the last decade.

The maintenance of separate policy and planning offices would appear to add unnecessary layers of bureaucracy, since the two offices perform similar functions providing data and analysis for agency decisionmaking. Better coordination and more efficient operation would be achieved if the offices were combined, and would provide the organizational basis for achieving a substantial reduction in the overall budget in this area.

**RECOMMENDATION #17:**

*The Task Force recommends that activities currently conducted by the Food Ingredient Assessment Division be transfered to other agencies directly responsible for such matters.*

**Rationale:**

The Food Ingredient Assessment Division is part of the FSIS Science Program. It provides information and analytical evaluations of food ingredients, non-food compounds and packaging materials. There is, however, nothing in the Federal Meat Inspection Act which requires any prior approval for the use of non-food substances which enter inspected establish- ments. While the division can serve at times as a useful information resource to industry and other outside personnel, it must be considered an unnecessary luxury. Most of the information it conveys is readily available from other sources such as the Food and Drug Administration and its other activities could be readily absorbed by other agency divisions. This is a relatively new function within FSIS and not one which is essential to the inspection mission.

**RECOMMENDATION #18:**

*The Task Force recommends that agency public relations functions be conducted at the departmental level.*

**Rationale:**

FSIS conducts a variety of public information and educational activities of varying degrees of utility and usefulness. The Task Force recognizes that the providing of information is an essential governmental function, and one traditionally of particular importance to the USDA. Again, however, this is an area where agency budgets have consistently expanded over the past several years. In today's environment, FSIS should be willing to forego the luxury of its own public relations unit, and obtain these services when necessary from a centralized USDA information office.

**RECOMMENDATION #19:**

*The Task Force recommends elimination of the Technology Transfer and Assistance staff. Functions currently performed by the staff could be absorbed within the Policy and Planning Office.*

**Rationale:**

The technology transfer and assessment staff is a small, relatively new unit within FSIS, whose impact upon agency and industry activities has been minimal. There is obviously much to be said about efforts to keep abreast of new technologies, but this may be another area where the maintenance of a separate staff is counter-productive, since it may promote a "someone else is worrying about this" mentality among inspection personnel. The elimination of this staff might therefore serve to enhance an individual sense of responsibility in this area.

***RECOMMENDATION #20:***

*The Task Force recommends the Industrial Engineering and Data Management Division be streamlined for improved efficiency.*

**Rationale:**

This staff performs two legitimate and important functions — conduct of work measurement studies and the management of the agency's computing facilities. Budgets in this area could be reduced substantially through a greater focus on these areas and efforts towards other operating efficiencies. More specifically, the more long range data processing analysis and development functions could be more appropriately accomplished at the departmental level. In addition, as automatic data processing becomes more rooted throughout all aspects of the agency, the need for and value of centralized expertise should serve to diminish over time.

***RECOMMENDATION #21:***

*The Task Force recommends that the Emergency Planning Office functions be eliminated and consolidated in other agencies.*

**Rationale:**

The agency maintains an Emergency Planning Office for the purpose of developing and coordinating emphasized emergency preparedness functions for national security and other types of emergencies and disasters. While it is difficult to quarrel with the general notion of the need for emergency preparedness, the Task Force feels that it is highly questionable as to whether the agency needs to maintain a separate function in this area. In the event of a serious national emergency , the essential guidance and expertise would come from outside sources, and the agency could readily designate personnel with other duties to perform liaison functions in this area.

***RECOMMENDATION #22:***

*The Task Force recommends that the paperwork management program be integrated as a line management function.*

**Rationale:**

Again, the Task Force believes that while the concept is legitimate, the value of the maintenance of a separate staff in this area is questionable and may actually be counterproductive in terms of decreasing a sense of line responsibility in this area. In this regard, it is impossible to avoid noting that the proliferation of forms, surveys, reports and other paperwork within the agency goes on unchecked.

# ACKNOWLEDGEMENTS

*The American Meat Institute's Task Force for Meat Inspection Efficiency appreciates the insight and contributions of the following persons:*

*Victor H. Berry, D.V.M., Industry Consultant*
*Albert W. Brandt, Ph.D., University of California, Davis*
*John A. Carpenter, Ph.D., University of Georgia*
*Irwin Fried, Industry Consultant*
*Donald H. Kropf, Ph.D., Kansas State University*
*Harry C. Mussman, D.V.M., Ph.D., Industry Consultant*
*Robert M. Schaffner, Ph.D., Industry Consultant*

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

October 31, 1986

Dr. Charles Cook
Chairman, Meat Inspection Efficiency Task Force
American Meat Institute
P.O. Box 3556
Washington, D.C. 20007

Dear Dr. Cook:

Please express my thanks to the members of your Meat Inspection Efficiency Task Force for providing us with your September 1986 Report. I appreciate receiving your 22 recommendations for improving the operations of the Food Safety and Inspection Service (FSIS).

Past discussions with Don Houston and other FSIS managers have convinced me that they share your conclusion that FSIS must not be wedded to a "business as usual" approach, both in view of the current budgetary constraints and, more permanently, in view of the need to promote innovative inspection techniques to correspond to a dynamic industry. In this regard, we were pleased to note that many of your recommendations for slaughter and processing inspection improvements are consistent with plans already underway in FSIS.

We also agree with your view that enhanced efficiency should not be achieved by sacrificing the integrity of inspection and jeopardizing public confidence in the safety of meat products. FSIS has compiled a strong record of program modernization and improved productivity with long-term benefits accruing to your industry and the public at large. At the same time the scientific, technical, and managerial issues faced by FSIS have increased in number and complexity, and the vocal critics of change are more aggressive than ever. FSIS must maintain strong administrative and support components to effectively plan and implement changes needed in inspection.

I can assure you that the AMI's task force report will be kept squarely in focus as we continue to maximize FSIS's efficiency and effectiveness. Each recommendation will be implemented to the fullest extent feasible, both in the near and long term. A point by point response to the task force report is attached.

Sincerely,

Kenneth A. Gilles
Assistant Secretary for
Marketing and Inspection Services

Enclosure

## POINT BY POINT RESPONSE TO AMI

### RECOMMENDATION #1

FSIS inspection resources be focused on those products, processes, and contaminants that pose the most significant health risk. Greater emphasis should be placed on microbiological and residue control, rather than on organoleptic examination.

The focus on health risks and emphasis on microbiological and residue controls are fully consistent with the underlying concepts and components of FSIS's long range and strategic plans. While FSIS agrees in general, it is useful to point out concerns about the increasingly popular notion that microbiological and residue controls are somehow the opposite of organoleptic examinations and, consequently, mutually exclusive.

Microbiological and residue controls are additional aspects of inspection. They are useful to identify the new and potential risks that cause concern in assuring that the meat supply is wholesome and comes from healthy animals. In areas such as pathological conditions and injectable drugs, organoleptic examinations can usually provide better assurance of detection than that obtained from random microbiological or residue testing alone.

FSIS has as a basic objective to develop screening tests that can be used at the plant level to detect violative action levels of both residues and microbes. However, microbiological testing continues to be a difficult issue due to the lack of consensus in the scientific community on microbiological standards. We are pleased at AMI's recent initiatives to explore this problem more aggressively.

Inspection of the future will continue to rely on streamlined, risk based organoleptic techniques supplemented by more sophisticated methods to measure product and process compliance.

### RECOMMENDATION #2

Mandatory identification of slaughter animals in order to identify and control disease conditions or residue violations at the source point.

FSIS agrees with the AMI Task Force and intends to propose regulations requiring identification of swine. A draft of the proposed regulation for swine identification has been prepared and is expected to be published shortly. Implementation of these regulatory changes among others will provide information to identify the source of residue violations and data to better control disease conditions.

RECOMMENDATION #3

FSIS slaughter inspection personnel management be improved through: (a) use of FSIS certified, part-time trained veterinarians, and (b) more efficient scheduling of slaughter operations in low volume plants.

The use of part-time Veterinary Medical Officers (VMO's) is more efficient in some assignments, and FSIS presently employs about 45 other than full-time VMO's. Continuing attempts to expand this number are frustrated by (1) a shortage of applicants in many locations where part-time tours are practicable, (2) the reluctance or inability of most part-time applicants to relocate, and (3) conflict of interest considerations which inhibit offering part-time employment to anyone working for or even drawing a pension from any facet of the meat and poultry food producing chain.

Further regulatory actions could be considered to make scheduling of slaughter operations more efficient, but the controls would not be limited to low volume operations. Earlier this year, during the midst of severe budget constraints, FSIS considered proposing amendments to its regulations to require that area supervisors assign schedules of operations during which federally-funded mandatory inspection would be provided to official establishments. The principal impact of the proposal would have been on small establishments that operate on a less than 40 hour per week schedule and thus do not require an inspector on a full-time basis, and on medium and large establishments that have departments requiring inspection on a less than full-time basis. The degree of impact would vary, depending primarily on differing local market conditions affecting the purchasing and transportation of animals/ingredients, the selling of product, and the extent to which establishment managers can plan for and control their operations. FSIS did not pursue this amendment, largely because the supplemental appropriation enabled hiring of sufficient inspection resources to accommodate existing industry schedules. The Agency was advised during a Congressional hearing in 1986 to keep that body informed if it could not provide inspection service that permitted full industry operation.

RECOMMENDATION #4

All ante-mortem inspection activities be performed and documented by the plant with FSIS monitoring. The intensity of FSIS monitoring should be dependent on type (health, status, age) of animals routinely slaughtered by the particular establishment.

FSIS agrees that companies should assume the primary responsibility to accept only animals suitable for producing products for human food and to segregate animals that show signs of disease or abnormalities. Currently, alternate ante-mortem provisions allow an establishments to segregate abnormal animals for traditional inspections while normal animals are subjected to modified procedures. Many large volume plants have been approved for this alternate method, which reduces inspector workload. AMI suggests a "patrol" inspection for ante-mortem that would parallel the system employed for processing plants (i.e., a daily presence). FSIS, with advice from the Office of General Counsel (OGC), has consistently interpreted the law as requiring each animal to be observed to detect disease and other conditions, which may not present obvious signs on post-mortem inspection. Unlike lots of processed products, each animal may be unique, reacting differently to diseases or chemicals. Detection of problems on ante-mortem may prevent the slaughter of an animal which could contaminate the kill floor and delay slaughter operations. FSIS is also responsible for monitoring compliance with the Humane Slaughter Act which requires observation of conditions and handling of live animals.

Implementation of the recommendation would require a legislative change.

RECOMMENDATION #5

New slaughter inspection procedures be implemented whereby FSIS inspectors concentrate on pathological determinations. Aesthetic dressing defects posing no public health risk should be controlled by plant personnel and monitored by FSIS through established finished product standards.

This recommendation is consistent with FSIS principles of protection and modernization efforts in recent years. Plant personnel should be responsible for removing dressing defects with monitoring by FSIS personnel through Finished Product Standards checks. The New Line Speed Inspection System in broilers and cornish game hens introduced this concept to the poultry industry in 1984 and was followed by the New Turkey Inspection System in 1985. The Streamline Inspection System (SIS) in broilers and cornish game hens replaced Modified Traditional Inspection in January 1986. FSIS has been working toward streamlining inspection procedures in cattle and swine. Both SIS and SIS with Quality Control will soon be available for all species of red meat and poultry.

FSIS does not agree that all dressing defects are aesthetic and pose no public health risk. Improper or careless dressing practices may introduce bacteria with serious public health consequences. Therefore, FSIS monitoring must go beyond pathological determinations.

RECOMMENDATION #6

All pre-operation sanitation inspections be performed by the plant with FSIS monitoring.

FSIS has adopted a pre-operational sanitation inspection approach for poultry slaughter plants that incorporates the concepts in this recommendation, placing sanitation inspection responsibilities on the plant with inspector sampling, prior to the start of operations. The experience with this approach has been mixed. In 1985, FSIS's Review and Evaluation Staff studied the system and found: 1) that the procedures had been effectively implemented in only about half the plants reviewed, 2) where the procedures were properly implemented, inspection was more efficient and overall plant sanitation was improved, and 3) where the procedures were not followed, the plants failed to present clean facilities and inspectors were reluctant to hold up operations. The Office of Inspector General recently completed an audit of meat and poultry inspection and found similar problems in large poultry slaughter plants. OIG supported the concepts of the procedure, but emphasized the need for stronger enforcement.

FSIS established a task force to review current procedures and develop new ones that could be applied to all official plants. Under the envisioned system, plants are held responsible for ensuring that slaughter and processing operations are carried out in a clean and sanitary environment. The task force developed a directive based on expanding the pre-operational procedures currently used in poultry slaughter plants and proposed revised forms for reporting sanitation deficiencies. Because of the problems encountered in policy guidance in poultry slaughter plants, FSIS chose to strengthen compliance within poultry slaughter operations first. The proposed directive and forms are presently the subject of consultations between FSIS and the National Joint Council. FSIS plans to survey pre-operational practices in all remaining plants to determine impact on industry and inspectors before expanding the concepts to other operations.

RECOMMENDATION #7

FSIS establish monitoring levels in processing establishments commensurate with the nature of the operation, the establishment's compliance history, and the adequacy of plant records to ensure control of critical points in the process.

FSIS supports this recommendation and has been moving in this direction, first adopting Total Quality Control (TQC) approaches to lessen inspection intensity in plants with proven systems of control. More recently, the Intensified Regulatory Enforcement (IRE) program has enabled FSIS to target resources in plants with the most serious compliance problems. FSIS is currently evaluating and will be pilot testing the implementation of inspection system work plans (ISWP) which provide a sound, systematic way to conduct processing inspection activities.

RECOMMENDATION #8

Legislative or administrative changes to permit expansion of "patrol" inspection concept in processing plants.

Greater efficiencies in the use of available resources will require new, risk-based inspection approaches being developed to implement the Processed

Products Inspection Improvement Act of 1986. This change in authorities, supported by both USDA and AMI, gives FSIS the flexibility to establish criteria and determine the manner and frequency of inspection at each processing establishment. FSIS will place extra resources where they are needed and reduce resources where public protection can be served with less intensive inspections. Passage of this legislation was paramount to modernizing the processing inspection program.

RECOMMENDATION #9

A reevaluation of existing work measurement standards, work rules and personnel scheduling criteria consistent with previously outlined recommendations.

FSIS has worked continuously to develop and refine inspection processes which allow increased industry productivity while maintaining protection of public health. Recent history bears witness to productivity gains for both industry and FSIS. Over the last fifteen years, cattle line speeds have doubled, swine speeds have increased over forty percent and poultry speeds by four hundred percent. These advances were accomplished by relocating line inspectors, providing inspectors with additional inspection tools such as mirrors, replacing incisions with palpations and palpations with observations where possible, using rapid screening tests, and returning quality control responsibilities back to the company.

Further actions are underway to make the most efficient use of current inspection personnel. The FY 1988 budget proposal contains a major initiative for an Inspection Position Coverage System (IPCS) which will automate the assignment of inspectors for the most cost effective staffing decisions, flexible response to changes in funding, and rapid, accurate modeling and forecasting for planning.

Collective bargaining agreements must be reached in the context of numerous Federal labor relations laws and regulations. FSIS approaches negotiations with a view toward maximizing efficiencies for industry and the government, while promoting fair labor practices, protecting employee rights, and enhancing program management.

RECOMMENDATION #10

The twenty six (26) area FSIS offices be eliminated. Administrative and supervisory functions currently conducted at the area offices should be transferred to the five (5) regional offices which provide liaison support between certain supervisors and the regional office. Twenty six (26) area support positions should be established at the regional level.

FSIS has considered this recommendation in the past and, in fact, incorporated the proposed elimination of area offices into budget submissions for FY 1983.

Congress specifically prohibited the proposed action by directing, in September 1982, that area offices remain open indefinitely pending the preparation and submission to Congress of two detailed studies on the effects of earlier area office closings and alternative field realignments. USDA policy officials decided to make no further attempts to effect savings by eliminating these offices. Continued pursuit of this particular recommendation, with the likelihood that Congress would again block the action, would create a climate of uncertainty and wasted energy that would be destructive to morale and have only negative impacts on efficiency.

RECOMMENDATION #11

The current prior label approval requirements be eliminated while other control measures to assure labeling accuracy and integrity remain in place. Policy development and audit functions would remain unchanged.

This recommendation has been considered in other contexts several times in the past. While it has some merit from a streamlining standpoint, it may be of questionable value in reducing overall costs. For example, elimination of the actual review process itself, while maintaining the policy development, guidance and enforcement aspects, could result in actual increases in costs if the volume of labeling discrepancies were high.

Prior label approval protects honest firms from the unfair competitive edge gained by false and misleading labels. Labeling of food products and meat and poultry products in particular is continually becoming more complex with such things as nutritional labeling, negative claims, and health benefits claims. In this context, prior label approval by a central group of experts promotes consistency and prevents misleading claims.

AMI is correct in that the law does not require the current system. However, OGC advises that some form of prior approval (generic or otherwise) is required. FSIS's streamlining efforts have concentrated on delegating to the field inspectors many label approval activities once centralized in headquarters and granting generic approvals. More recently, FSIS proposed that plants operating under total quality control may develop a control program with respect to approval of a substantial number of the labels with FSIS oversight. Once in place, this program should substantially meet the intent of the AMI recommendation, at least in TQC plants. The opportunity for further change in this area is also possible under a discretionary inspection program, and will be explored.

RECOMMENDATION #12

A consolidation of all training activities now conducted in the program training division and personnel division. All non-essential training unrelated to the direct inspection mission of the agency should be eliminated.

Enhancements in FSIS training activities, including the issue of consolidation, are currently under study. AMI's recommendation appears to equate "non-essential" training with many of FSIS's managerial and human development training activities. Last year, in the face of a total employment freeze and impending furloughs FSIS did freeze all non-technical training — only recently lifting this restriction when additional funding became available. However, it should be recognized that much of the "non-essential" training conducted by FSIS is required by statute, executive order, OPM, USDA, and similar regulations.

One exception to the training freeze was Equal Employment Opportunity (EEO) training for managers and supervisors. Increased emphasis has been placed on EEO training over the past three years to assist supervisors and managers in performing their EEO duties and to address new Federal regulations, such as prevention of sexual harassment in the workplace. A continuing policy to restrict training to technical aspects of the job can only lead to serious deterioration of management and supervisory capabilities and consequent loss of effectiveness and productivity. Further, eliminating human development training would strike a serious blow to FSIS's ability to respond to overall department efforts to improve development opportunities for all employees — particularly minorities and women. This would work directly counter to Secretary Lyng's commitments in these areas.

RECOMMENDATION #13

Compliance staff functions be restructured to include more effective use of existing field operations personnel.

The Compliance Program, which reports directly to the Deputy Administrator, Meat and Poultry Inspection Operations (MPIO), maintains a separate field and headquarters supervisory structure in keeping with its unique functions within FSIS. This structure has proven very effective and efficient in dealing with investigatory, product control and enforcement functions. Although it is not altogether clear how AMI would restructure the reporting lines, it appears that the restructuring would eliminate separate offices by incorporating them into regional offices and perhaps eliminate the headquarters staff. This action would not result in any cost savings nor improve communications. Compliance offices are already situated in proximity to regional offices, and both formal and informal reporting systems insure effective communications among counterparts. Suggested changes would diminish the ability of the Compliance Program to respond quickly and effectively to significant Agency concerns and to maintain the necessary degree of uniformity in nationwide enforcement activities.

Added to these considerations is the need for an independent compliance unit within FSIS. Several years ago, a recommendation similar to that proposed by the AMI was under consideration within USDA. At that time, the Inspector General (IG) made it clear that it would not be acceptable to merge the Compliance function into the overall field organization so that it's independent organizational structure was lost. The IG considered the Compliance Program as part of its overall enforcement network within USDA, and recommended that it remain as a well-defined organizational entity within the Agency. That recommendation was accepted by USDA policy officials.

RECOMMENDATION #14

The existing Review and Evaluation staff be eliminated. As necessary, other governmental audit groups could continue to provide the agency with overviews of inspection controls.

The Review and Evaluation Staff (R&E) reports to the Administrator and consumes less that one-half of one percent of the FSIS budget. It provides independent, objective oversight of inspection and other FSIS operations. R&E routinely reports findings for prompt corrective action by FSIS supervisors, and does special indepth studies for regulatory decisionmaking. R&E provides other assistance to FSIS such as the special reviews of southern California, independent assessments of a series of plants that were identified to us by the EEC as "unhygienic" and the emergency response to the heptachlor contamination problems in Arkansas and Oklahoma.

The flexibility of R&E to respond to these kinds of situations and quickly collect reliable information gives FSIS an invaluable resource that would not be available through the Office of Inspector General (OIG) or the General Accounting office (GAO). Further, outside audit groups are not equipped with the kinds of personnel necessary to evaluate the technical and scientific aspects of FSIS programs. It is also noteworthy that criticisms by whistleblower groups and media sources have centered around an alleged dilution of the review functions. Although these criticisms were unfounded, they reinforce the importance of an independent, effective internal audit activity in maintaining public confidence.

The IG has also supported the R&E function as a necessary and vital tool to a public health agency such as FSIS.

RECOMMENDATION #15

The Personnel Division be reorganized to achieve increased operating efficiencies.

FSIS's Personnel Division is composed of 100 people who provide a full range of personnel services to about 10,000 paid employees located in over 7,000 separate duty stations. A common ratio for comparison is that of personnel specialists and technicians who provide operational support to employees to the number of employees supported. For this measure, the FSIS ratio is 1 to 161, the USDA wide ratio is 1 to 48, the government-wide ratio is 1 to 59, and the standard proposed by the Cabinet Council of Management and Administration (i.e., Grace Commission) is 1 to 72.

FSIS has been able to administer its program with such lean staffs through extensive use of highly refined and streamlined systems for classification, performance evaluation, employee relations, and training, among others. Standardization has been used to do more with less. Further, automation of a wide range of personnel functions has allowed FSIS to reduce its Personnel Division ceiling by four staff years. Such things as centralized word processing and electronic transmission of data have promoted standardized correspondence formats, reduced paperwork, and improved communications. Automated logging of personnel actions and automated reminders have reduced time-consuming mistakes and provided more useful analytical data. Use of reporting from the National Finance Center data base has eliminated periodic reports and lengthy manual calculations. Direct data entry of personnel documents into the personnel/payroll data base has eliminated manual documents and filing (over 20,000 personnel documents are processed per year), and payroll problems are resolved more rapidly through electronic inquiry.

RECOMMENDATION #16

The Planning Office and Policy Office be combined.

The planning and the policy offices have been sub-components of the Policy and Planning Staff (PPS), since its inception in 1979 and consume less than one-half percent of the FSIS budget. Combining the policy and planning functions in one staff office provides economies of scale and allows cross-utilization of staff resources. The current organization within PPS of policy under one office director and planning under another promotes efficient management and supervisory span of control and is in line with accepted business and management practices.

The Policy Office supports decisionmaking with indepth research and analysis of specific regulatory policy issues which, among other things, take into account the wide array of competing needs and interests of the consumer and the meat and poultry industry. It also performs preliminary regulatory analyses of rulemaking initiatives; facilitates consensus-building within FSIS; and manages the development and issuance of regulations, other Federal Register publications, and directives, in keeping with all legal and administrative requirements and USDA policy decisions.

The Planning Office manages and directs the Agency's comprehensive planning system, which includes the FSIS Strategic Plan of long-term policy goals; a Multi-year Plan with program objectives, resource requirements, and associated costs; and an Annual Program Plan with specific initiatives for the current fiscal year. The office also conducts the systematic review of existing regulations as directed by Executive Order 12291 and the Regulatory Flexibility Act and performs studies to identify the economic, technical, and legal issues that can be addressed through long-range planning activities.

RECOMMENDATION #17

Activities currently conducted by the Food Ingredient Assessment Division (FIAD) be transferred to other agencies directly responsible for such matters.

FIAD is part of the FSIS Science Program, created to consolidate activities previously fragmented in several other FSIS units. Transfer of the activities back to those units would not save resources. Prior evaluation of non-food substances used in federally inspected establishments and dissemination of information are the most visible FSIS functions, but they are only two of many functions performed. FSIS coordinates formulation of FSIS nutrition policy related to the wholesomeness and proper labeling of meat and poultry products; it conducts consumption studies related to exposure assessments and health and safety impacts of food ingredients, additives, and residues; it coordinates activities related to food irradiation and it monitors the use of packaging materials to verify that use complies with Federal laws and will not result in product adulteration. All of these functions support FSIS legislative mandate that meat and poultry products moving in interstate and foreign commerce be wholesome, unadulterated, and properly labeled.

RECOMMENDATION #19

Agency public relations functions be conducted at the Department level.

Presumably, what the recommendation refers to as "agency public relations functions" are the activities of FSIS' Information and Legislative Affairs Staff. These are not promotional in nature, however. Rather, they are public information and education programs which the Agency is required to conduct and which help maintain consumer confidence in the meat and poultry supply.

These mandated information and education programs could not simply be transferred and performed at the Department level instead of by FSIS. USDA's Office of Governmental and Public Affairs lacks the necessary staff, funds, and expertise. Its role is to direct and coordinate public information and public affairs work coming out of USDA agencies; it does not originate materials or initiate activities for the agencies.

USDA's role in educating the public about food safety, therefore, falls to FSIS to perform. If the agency abandoned this role, a chain reaction could be expected. History demonstrates that government regulation increases when industry action or inaction seems to harm public health. Foodborne illness is on the rise, and bacterial contamination is increasingly in the news.

The public would be more likely to mishandle meat and poultry; foodborne illness would increase; industry would be pressured--as it has been in the past--to use product warning labels to inform consumers of bacterial hazards.

When problems do occur in plants, the media and Congress turn to FSIS for information. If an information function did not exist in FSIS, there would be no one to handle the hundreds of calls and letters that result from recalls and situations like Cattle King, Hormel or Durham. FSIS' experienced Information and Legislative Affairs Staff stays on top of the situation and release new information, speaking with authority and credibility to assure the public through the media that USDA is taking the necessary actions.

FSIS information and education activities have been carefully scrutinized over the past decade, and the Agency has made every effort to eliminate those that are non-essential. FSIS has greatly reduced the number of its publications, for example. Even if it were possible to transfer the remaining activities to a centralized USDA group, the overall costs might actually increase, since the current high level of productivity is achieved by maintaining a small, trained staff of experts who are able to respond to inquiries without conducting new research every time they are asked a question.

A different type of information program is conducted by FSIS' Equal Opportunity and Civil Rights Staff, which conducts community outreach activities with minority, women, professional, and civic organizations as well as with schools and universities. These activities are required by civil rights laws and departmental policy to ensure that all segments of U.S. society are aware of program services and employment opportunities. The costs for this function are minimal, and these outreach activities are often conducted by EEO Advisory Committee members and supervisors on their own time. Community outreach activities have proven an effective means of communicating and interacting with the public. They also have been a rewarding experience for the employees involved.

RECOMMENDATION #19

The Task Force recommends elimination of the Technology Transfer and Assessment Staff. Functions currently performed by the staff could be absorbed within the Policy and Planning Office.

The Technology Transfer and Assessment (TTA) Staff was created five years ago to assist FSIS in transitions necessary to meet the ever-increasing pace of technological change.

TTA identifies and analyzes emerging technologies and innovations which, if adopted by the industry, necessitate change in inspectional practices. It is placed organizationally with the FSIS technical staffs, which evaluate TTA findings as they formulate changes in inspection procedures, and with the technical training function, which prepares the workforce for introduction of new technologies. Placement in the Policy and Planning Staff would not save resources and might lessen communication on technical aspects of inspection and meat production. Experience has not shown that the establishment of the TTA staff has led to a "someone else is worrying about this" mentality. On the contrary, TTA has heightened the awareness of new technologies in other staffs, and in the minds of top management in FSIS.

RECOMMENDATION #20

The Task Force recommends the Industrial Engineering and Data Management (IEDM) Division be streamlined for improved efficiency.

In response to the recent National Academy of Sciences (NAS) study, FSIS convened a Data Systems Task Force to develop efficient and effective ways to deal with future information needs. The task force report was incorporated in the FSIS Future Agenda which was approved by Secretary Lyng. The report calls for a totally integrated data base environment which would link program-specific data sources. IEDM is responsible for coordinating this task, putting in place the required environment for successful completion.

Transferring analysis and development functions to the department level would not improve efficiency. A shift in functional responsibility would undoubtedly add another layer of management and overhead to perform liaison functions. More importantly, when systems development staffs are far removed from direct contact with users, the quality of support suffers.

As computers become more prevalent throughout FSIS, the need for IEDM's coordination and standardization functions increases. In fact, NAS faulted FSIS's lack of a coordinated information system which hampers the management decisionmaking process.

In FY 1988, FSIS plans an Agency-wide Information Resource Management (IRM) study to survey existing Automated Data Processing (ADP) facilities and suggest changes in software development, information flow to and from field operations, hardware procurements, and organizational efficiency. Any change in the organizational structure of centralized ADP planning by IEDM should flow from the development of this coherent, logical, and phased long-range IRM planning.

## RECOMMENDATION #21

Emergency Planning Office functions be eliminated and consolidated in other agencies.

The Secretary of Agriculture is responsible for national leadership and direction of emergency agriculture programs for national security and natural and technological disasters. These programs have been determined to be essential, uninterruptible functions that must be performed.

USDA has directed that agencies such as the Agricultural Stabilization and Conservation Service (ASCS), Food and Nutrition Service (FNS), Forest Service (FS), Soil Conservation Service (SCS), Agricultural Research Service (ARS), and Food Safety and Inspection Service (FSIS) staff, train, fund, and operate emergency programs assigned to them. Each agency maintains a small staff to accomplish the workload, with USDA's Chief of Emergency Programs providing overall direction and coordination, using two professional staff persons.

In September 1980, the Secretary designated FSIS to assume responsibility for USDA's radiological emergency planning and preparedness. FSIS was selected as the lead agency, since food safety issues are a primary consideration in a nuclear accident; and FSIS had expertise available to address complex radiological subjects. The mandate to FSIS was subsequently expanded to include terrorism, sabotage, transportation and nuclear weapons accidents.

The FSIS Emergency Planning Office (EPO) designs and manages USDA's radiological emergency operations system which includes: assisting State and local governments in emergency response planning; evaluating on-site exercises of State and local plans and recommending improvement; and providing expert advice and assistance on agricultural protective measures to State governments, utility companies and other Federal agencies. The Agency's response capability was clearly demonstrated during the recent Chernobyl accident in the Soviet Union.

EPO represents USDA at major federal exercises that test the ability to respond effectively to nuclear weapons accidents, sabotage, and terrorism. In addition to managing preparedness for all nuclear accidents for USDA, the EPO is responsible for coordinating FSIS emergency preparedness functions for national security in wartime situations; in natural emergencies such as volcanoes and earthquakes; and technological emergencies such as toxic chemicals spills.

Based on USDA policy of decentralizing emergency functions and delegating operational authority to the agencies, any reorganization affecting this office must be addressed on a department-wide basis.

RECOMMENDATION #22

The Task Force recommends that the paperwork management program be integrated as a line management function.

The National Archives and Records Administration (NARA) requires that the head of each agency develop, implement and maintain a paperwork/information management program.

The FSIS Paperwork Management Branch (PMB) has 23 permanent full time employees. Nine employees work in printing and distribution of Agency material, which should not be integrated as a line management function. The remaining 14 employees are responsible for: the interpretation and administration of laws governing federal forms and reports and the administration of the records, directives, mail, and printing and distribution program of FSIS. FSIS policy is to assure that inspectors and supervisors not be distracted by support functions that can be performed more efficiently and expertly by an administrative support staff.

FSIS uses the federal rulemaking process to regulate meat and poultry products. These rules, by their very nature, often require a certain level of paperwork burden. Collecting information from industry means obtaining data through the use of written report forms, application forms, schedules, questionnaries or surveys for reporting,and recordkeeping requirements. The PMB works with the FSIS line managers to develop the most practical data collection instrument. The forms design staff redesigns forms to make them easier to read and easier to complete. Since 1985, over 360 forms have been reviewed, with over 110 identified for elimination.

Since the Paperwork Reduction Act of 1980 (P.L. 96-511) was passed, FSIS has reduced its reporting burden on the public by nearly 70 percent.

# STATEMENT OF JOHN BAILAR
FOR THE
FOOD AND NUTRITION BOARD
COMMISSION ON LIFE SCIENCES
NATIONAL RESEARCH COUNCIL

FOR THE
SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

MAY 15, 1987

Mr. Chairman and members of the subcommittee: I am Dr. John Bailar. I am a physician and statistician who specializes in public health aspects of risk assessment and risk management. I am on the faculty of the School of Public Health, Harvard University. The National Research Council's (NRC) Commission on Life Sciences has asked me to summarize the findings of the Food and Nutrition Board's Committee on the Scientific Basis of the Nation's Meat and Poultry Inspection Program. That committee's report, entitled Meat and Poultry Inspection: The Scientific Basis of the Nation's Program was published in 1985. I was a member of that committee, I also served as Vice-chair of the NRC's Committee on Public Health Risk Assessment of Poultry Inspection Programs, which has recently completed a study in follow-up to the one that produced the 1985 report.

My statement is based on the 1985 report. The ideas, conclusions, and recommendations that I convey in this formal statement are those of the committee although I may not always identify them as such. My answers to your questions will for the most part reflect the conclusions and recommendations of the committee but will be undoubtedly flavored by my own viewpoints in some cases.

The 1985 report on Meat and Poultry Inspection was developed at the request of the Administrator of the Food Safety and Inspection Service of the Department of Agriculture. Hereafter I will refer to the Service as FSIS and its parent agency as USDA. The Administrator of FSIS asked the National Research Council to appoint a committee to provide a scientific appraisal of the ability of the current inspection system, including some recently introduced changes intended to improve public health protection, and to propose ways to improve the program.

The committee recognized that the inspection process as a whole has important objectives other than health, including accurate labeling, protection of the aesthetic qualities of fresh and processed meat and poultry, and humane slaughter. The committee's charge, however, was to examine the "scientific basis of the nation's program," and we interpreted that charge to limit our direct concerns to health. In practice, that means biological and chemical hazards. The committee found that American consumers have broad access to meat and poultry that is wholesome and safe, but that inspection could be improved by new techniques for detecting microbial and chemical contaminants and by revised inspection practices that incorporate the principles of risk assessment and risk management.

Traditional inspection procedures date to the turn of the century, when there was reason for genuine concern about the health of animals used for food products and the conditions under which they were slaughtered. Federal meat inspection activities were organized to remove obviously diseased animals from the food supply and to assure that only healthy animals, slaughtered under sanitary conditions, reach the market place. The general responsibilities of FSIS include responsibility for inspecting slaughtered animals, ensuring the cleanliness of meat and poultry plants, monitoring contaminants in meat and poultry products, and ensuring the accuracy of labeling. Inspectors examine animals before, during, and after slaughter for physical injury or signs of disease. In the critical phase of postmortem inspection, inspectors rely primarily on organoleptic techniques; that is, observation by sight, smell, and touch, to examine some 127 million head of cattle, sheep, and hogs, plus more than four and a half billion chickens and turkeys each year.

These procedures have served the purpose for which they were originally intended: to detect grossly diseased animals and damaged products and tag them for removal from the food supply. However, they can have little role in the detection and control of the most important health risks of the present, microbial and chemical contaminants. In part because of the success of that original program and the general good health of food animals, the conditions under which they are slaughtered and processed are no longer the major public problems they were some decades ago.

I would now like to focus on the major conclusions and recommendations of the committee.

The committee found that the meat and poultry inspection program of FSIS has in general been effective in ensuring that apparently healthy animals are slaughtered in clean and sanitary environments and that defective animals and parts detected at slaughter are removed from the food supply. FSIS has clearly reduced risks to public health from conditions that can be observed during antemortem and postmortem inspection and that can be evaluated during processing. However, substantial challenges continue to confront the agency. Some aspects of the inspection system are poorly defined in terms of objectives relevant to public health. A risk-based allocation of resources, supported by modern technology and a systematic evaluation of the program, would be valuable.

It is well established that species of Salmonella and Campylobacter cause diseases that are transmissible to humans through the consumption of meat and poultry products. Current postmortem inspection methods are not designed to detect diffuse contamination with these or other organisms, and the committee recommended that FSIS intensify its current efforts to control and eliminate contamination with microorganisms that cause disease in humans. Such efforts should include evaluation of rapid diagnositic procedures for detecting microorganisms, especially species of Salmonella and Campylobacter, and education of the general public, health care personnel, educators, and extension service workers in the safe handling of meat and poultry.

The committee commended recent progress by FSIS in protecting the public against exposure to hazardous chemicals in meat and poultry, but found that FSIS's residue monitoring program needs to be further expanded and improved to ensure maximum protection of the public health. In particular, the committee questioned the adequacy of the total sample size used for routine monitoring, the procedures for sampling animals and tissues, the basis for and utility of current tolerance levels for chemicals, and the basis for setting priorities for testing chemicals. In particular, we recommended that FSIS work to prevent the introduction of chemical hazards and potential hazards to human health.

Although FSIS has adopted new technologies, the committee found that the efficiency of the current inspection and processing operations and the ability of those procedures to protect public health are impeded by the limited application of rapid, specific, and sensitive techniques to detect pathogenic microorganisms and deleterious chemicals in meat and poultry and by inadequate information acquisition and retrieval facilities. For example, the failure to apply sufficiently modern techniques to detect abnormalities in organs and tissues necessitates more extensive, yet less efficient, human resources during inspection.

The current FSIS computer capabilities for the acquisition, analysis, and transmission of data are relatively slow and are inadequate to meet the growing demands of the agency for rapid interpretation of, for example, data on the prevalence and public health implications of high levels of chemical and microbial residues in meat and poultry. Computer-assisted information systems with better capabilities are commercially available.

Recent advances in science and technology have made possible rapid, sensitive, and inexpensive techniques based on immunological and recombinant DNA principles (biotechnology), some of which can be applied at the farm level for screening microbial and chemical contaminants. The Swab Test on Premises (STOP) and the Calf Antibiotic Sulfonamide Test (CAST) are two such techniques used by FSIS for antimicrobial residues. STOP is a new fast screening test for antibiotics that is used at slaughter. CAST is a similar technique for antibiotics and sulfonamide residues. The results of these tests can be obtained within 24 hours, compared with 1 to 2 weeks using conventional methods.

Several changes would help to strengthen the National Residue Program (NRP) of FSIS and to increase the impact of NRP test results. The present NRP program was designed to detect (with 95% certainty) certain chemical hazards that affect at least 1% of slaughtered animals across the nation as a whole; thus, problems that are temporary or affect only a few sources may have little chance of being detected. The NRP sampling plan for chemical residues should be expanded and revised to increase the probability of detecting hazards that are linked in time or location. Another useful step would be a system to identify animals individually, with means to trace specific health risks back to the farm of origin. Further, the committee suggested that FSIS reexamine the priorities and the methods used by other regulatory agencies for establishing tolerance levels of chemicals to ensure that they appropriately reflect the size of risks to public health. Formal risk assessment and more frequent communication with other regulatory agencies and with scientific peer-review groups would be beneficial.

The committee noted that effective monitoring of feed and water ingested by food animals requires access to farms and feedlots, where infectious microorganisms and chemicals are introduced. This issue is complicated by the fact that FSIS does not have the authority to become directly involved in monitoring and management of feed and water and because other government bodies--namely, the Food and Drug Administration and the Environmental Protection Agency--also have responsibility for various aspects of the surveillance and control of additives and pesticides. The committee recommended that means be found for FSIS to coordinte monitoring and control of hazardous agents where they enter the meat and poultry food chain. The committee found it to be logical that FSIS have this responsibility, because FSIS alone is charged with ensuring the safety and wholesomeness of meat and poultry products in a general sense and because FSIS already does the sampling and testing for chemical hazards.

FSIS continually modifies its traditional inspection methods and introduces new techniques to detect health hazards and to increase the efficiency of inspection. The committee noted that the changes introduced are not likely to diminish protection of the public health. However, the committee was hampered in developing a more precise assessment of the effects of the changes because it could find no comprehensive statement of criteria used to justify the use of new procedures, no systematic accumulation of data that could be used for evaluations, and no complete technical analysis of the benefits of the procedures.

The committee commented that a voluntary program introduced in 1980 called Total Quality Control (TQC), in which selected meat processors share responsibility for ensuring product safety with FSIS, seem to be working well. However, it recommended that the program incorporate newer technologies and that both FSIS and industrial personnel receive additional training to improve efficiency.

The committee favored an approach that would link the inspection program more directly to criteria relevant to public health. In this context the committee endorsed a hazard analysis-critical control point (HACCP) approach, which focuses monitoring efforts on specific points in the system. Ideally, this approach should be applied to each phase of food production and processing from farm to table. The committee recommended that FSIS implement a HACCP approach more rapidly and comprehensively within the scope of its authorities.

The committee concluded that "The establishment of reasonable, measurable objectives for the nation's meat and poultry inspection program is imperative." It urged FSIS to adopt the principles of risk assessment as a tool to guide its program analyses and decisions about inspection procedures. Risk Assessment includes: identification of hazards; measurement of dose-response relationships; estimation of exposure likely to be experienced by the population as a whole and by sensitive groups such as young children and the elderly; and an evaluation of the overall consequences of exposure. Using this approach FSIS could assess each step of the inspection process to determine whether it is useful in protecting human health and in the attainment of other inspection objectives.

The committee described an optimal meat and poultry inspection program and listed 17 of its components, many of which FSIS has already put in place. As envisioned by the committee, an optimal program would utilize the skills of teams of broadly knowledgeable inspectors and would seek advice from panels of outside persons who are experts in specific disciplines. Some other critical elements of an optimal program are a traceback and recall system, an adequate sampling plan, an inspection system with different levels of intensity, and adequate resources to conduct or sponsor research into new inspection technologies.

To summarize, the committee concluded that what FSIS does, it does well, but some changes are needed. The primary risks to public health associated with meat and poultry products are from microbiological and chemical contaminants. These health risks are not in general detectable by current inspection methods, but recent technological advances could be used by FSIS to help attain its goal of protecting the public health. FSIS must determine where such techniques might be used most effectively, it should provide for ongoing evaluation of these and other changes, and it should attempt to prevent the introduction of human health hazards into food production systems using well established risk assessment and risk management techniques. This latter objective is compliliated by the overlapping authorities of several government agencies.

Record Statement of:

Joshua E. Weiner
Legislative Representative
Food and Allied Service Trades, AFL-CIO

To:
Subcommittee on Oversight of Government Management
Committee on Government Affairs

On:
U.S. Department of Agriculture Poultry Inspection System

MR. CHAIRMAN AND MEMBERS OF THIS DISTINGUISHED SUBCOMMITTEE, LET ME CONGRATULATE YOU FOR HOLDING HEARINGS ON SUCH AN IMPORTANT ISSUE. MY NAME IS JOSH WEINER AND I AM A LEGISLATIVE REPRESENTATIVE WITH THE FOOD AND ALLIED SERVICE TRADES DEPARTMENT OF THE AFL-CIO. FAST REPRESENTS 16 UNIONS AND APPROXIMATELY 1.3 MILLION WORKERS IN THE RAPIDLY GROWING SERVICE ECONOMY.

THE ISSUE OF POULTRY INSPECTION IS NOT NEW TO FAST OR ANY OF ITS AFFILIATES. THE LABOR MOVEMENT HAS LONG PROMOTED LEGISLATION THAT PROTECTS WORKERS AND CONSUMERS FROM CONTAMINATED MEAT. AND THERE IS GOOD REASON FOR HEIGHTENED CONCERN.

SOME OF THE PEOPLE WHO HAVE TESTIFIED BEFORE THIS COMMITTEE WOULD LIKE YOU TO BELIEVE THAT VISUAL INSPECTION IS OBSOLETE: BIRDS DON'T SUFFER FROM VISUALLY-DETECTABLE DISEASES, AND ALL DISEASES THAT BIRDS NOW SUFFER FROM CAN BE DETECTED WITH MICROBIOLOGICAL TESTS. IT'S TRUE THAT THE VISUAL INSPECTION SYSTEM WE NOW HAVE CAN'T DETECT SALMONELLA. BUT CAN THE PROPOSED MICROBIOLOGICAL TESTS DETECT A CANCEROUS TUMOR?

WE NEED TO USE OUR HUMAN RESOURCES IN THE MOST EFFICIENT WAY TO DETECT DISEASE IN FOOD. HOWEVER THERE IS NO EVIDENCE THAT MICROBIOLOGICAL TESTS ALONE ARE AN EFFICIENT WAY TO DETECT THE MOST COMMON DISEASES IN POULTRY. SOME DISEASES ARE MOST EFFICIENTLY DETECTED VISUALLY, AND SOME DISEASES ARE MOST EFFICIENTLY DETECTED MICROBIOLOGICALLY. BUT BEYOND THIS, THESE MICROBIOLOGICAL TESTS SIMPLY HAVEN'T BEEN DEVELOPED YET.

THE VISUAL INSPECTION SYSTEM WAS INTRODUCED FOR A REASON, AND WE CONTINUE TO NEED IT FOR THE SAME REASON--IT DETECTS DISEASE.

THE NATION'S PRESENT INSPECTION SYSTEM IS NOT ADEQUATELY PROTECTING EITHER WORKERS OR CONSUMERS. BUT THE PROPOSED INSPECTION SYSTEM, HEAVILY WEIGHTED TOWARD AND DEPENDENT ON SCIENCE, IS NOT TECHNOLOGICALLY READY TO BE PUT INTO USE.

ACCORDING TO THE RECENT NATIONAL ACADEMY OF SCIENCES (NAS) REPORT ON POULTRY INSPECTION, THE PROPOSED SPOT CHECK, BASED ON RISK ASSESSMENT IS A GOOD PROGRAM BUT ONLY IN THEORY. THE MACHINERY, TECHNOLOGY, AND FORMULA ARE NOT YET READY FOR MASS USE. THE REPORT SAYS:

> MINIMIZING MICROBIAL CONTAMINATION ON POULTRY IS A WORTHWHILE OBJECTIVE, BUT IT IS PREMATURE TO ESTABLISH FORMAL MICROBIOLOGICAL CRITERIA FOR CLASSIFYING RAW PRODUCTS AS MICROBIOLOGICALLY ACCEPTABLE OR UNACCEPTABLE. DATA REQUIRED TO JUSTIFY SUCH FORMAL REGULATORY STANDARDS DO NOT EXIST.

THE NAS REPORT DOES OFFER A PROMISE OF INCREASED SAFETY FOR US ALL. BUT THAT SAFETY IS AT LEAST TEN YEARS DOWN THE ROAD.

GOVERNMENT-REGULATED INSPECTION MEANS THAT MOST BAD POULTRY NEVER GETS TO THE CONSUMER, BECAUSE IT IS POSSIBLE TO DETECT GROSS PHYSICAL DISORDERS WITH A BIRD-BY-BIRD SYSTEM OF INSPECTION.

Food and Allied Service Trades Department, AFL-CIO

MANY PRODUCERS FEEL THAT GETTING RID OF VISUAL INSPECTION WILL REDUCE UNIT COSTS AND RETAIL PRICES OF THEIR PRODUCT. YET, THE NAS REPORT GIVES US NO ASSURANCE THAT MICROBIAL INSPECTION WILL ACTUALLY DETECT MORE CONTAMINATED POULTRY. SO WHAT PROGRESS DOES THIS PROPOSED INNOVATION REALLY ACHIEVE?

PROBLEMS WITH BIRD-BY-BIRD INSPECTION INCREASED WHEN PRODUCERS INTRODUCED NEW MACHINES TO SPEED UP PRODUCTION, WITHOUT CONSIDERING THE EFFECTS THEY WOULD HAVE ON MICROBIAL CONTAMINATION. THE MECHANICAL EVISCERATOR IS A PERFECT EXAMPLE. THIS MACHINE IS MUCH MORE LIKELY TO PUNCTURE THE INTESTINE, SPREADING FECAL MATTER AND CONTAMINATING THE MEAT.

ANOTHER EXAMPLE IS THE DE-FEATHERING MACHINE. BECAUSE THE LINE IS FORCED TO OPERATE AT SUCH A RAPID PACE, MACHINES BECOME CLOGGED WITH DIRT AND BACTERIA. THERE IS NO TIME TO CLEAN THE MACHINES, SO BACTERIA IS LITERALLY PUSHED THROUGH THE SKIN OF THE BIRD AND INTO THE FLESH.

STILL ANOTHER EXAMPLE OF HOW SPEEDING UP THE CHAIN HAS INCREASED THE RISK OF CONTAMINATION IS THE SIMPLE FACT THAT WATER USED TO RINSE THE CARCASSES IS NOT CHANGED OFTEN ENOUGH TO ASSURE CLEAN BIRDS. IT ONLY TAKES ONE BAD BIRD TO CONTAMINATE THE WHOLE DAY'S PRODUCTION WHEN FILTHY WATER IS USED OVER AND OVER.

IRONICALLY, IF WE RADICALLY CHANGE THE PRESENT INSPECTION SYSTEM, WE MAY IN FACT BE INVITING UNSCRUPULOUS PRODUCERS TO PASS EVEN MORE CONTAMINATED MEAT ON TO THE CONSUMER BECAUSE THE CHAIN SPEED WILL RACE ALONG UNCHECKED.

WITHOUT BIRD-BY-BIRD INSPECTION BY GOVERNMENT EMPLOYEES, MORE POULTRY THAT IS ON THE BORDERLINE BETWEEN EDIBLE AND NON-EDIBLE WILL BE SHIPPED TO STORES FOR CONSUMPTION. HOW MANY TIMES HAVE WE ALL FELT A SMALL STOMACH ACHE OR THE "24 HOUR BUG?" THE SICKNESS IS OFTEN THE RESULT OF A MILD CASE OF FOOD POISONING THAT CAN BE CAUSED BY EATING CONTAMINATED POULTRY. USUALLY THE ILLNESS ONLY LASTS A SHORT TIME. SOMETIMES, HOWEVER, IT CAN KILL. LAST YEAR APPROXIMATELY 2,000 PEOPLE DIED AS A RESULT OF SALMONELLA POISONING.

INDUSTRY REPRESENTATIVES INSIST THAT MOST PRODUCERS ARE HONEST AND SELL ONLY QUALITY PRODUCT BECAUSE THEIR SALES DEPEND ON CONSUMER CONFIDENCE. UNFORTUNATELY, THE CONSUMER DOESN'T KNOW WHO TO BLAME WHEN HE OR SHE GETS MILD FOOD POISONING. PEOPLE COULDN'T TELL THAT MEAT WASN'T SAFE IN THE 1910S, UNTIL UPTON SINCLAIR TOLD THEM THAT IT WAS PRODUCED UNDER DISGUSTING CONDITIONS. WE SIMPLY CANT TELL HOW MANY CASES OF FOOD POISONING ARE CAUSED BY CONTAMINATED MEAT.

THERE MAY BE AN ENORMOUS NUMBER OF CASES OF MILD FOOD POISONING WHICH ARE NEVER REPORTED. IT'S NOT POSSIBLE TO PROVE WHERE THE MEAT SPOILED -- WAS IT PROCESSED UNDER BAD CONDITIONS, OR WAS GOOD MEAT HANDLED POORLY BY SHIPPERS, RETAILERS, OR EVEN CONSUMERS? THE MOST EFFECTIVE WAY TO PROTECT THE PUBLIC AND CERTAINLY THE WORKER, IS TO ENFORCE COMPREHENSIVE INSPECTION IN PROCESSING PLANTS.

I DO NOT MEAN TO SUGGEST THAT THE INDUSTRY DOES NOT CARE ABOUT CONSUMER HEALTH. IN FACT MOST PRODUCERS PROBABLY HOLD CONSUMER SAFETY IN THE HIGHEST REGARD. BUT IT IS FOOLISH TO RELY UPON A COMPANY TO BE BOTH PRODUCER AND WATCHMAN. THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) HAS RECENTLY LEARNED THIS LESSON AS IT UNCOVERS CASE AFTER CASE OF FRAUDULENT INJURY AND ILLNESS RECORDKEEPING -- A SYSTEM OF EMPLOYER SELF-REGULATION DESIGNED AS A WAY FOR THE GOVERNMENT TO SAVE MONEY. WE NEED A METHOD TO KEEP THE FEW UNSCRUPULOUS PRODUCERS IN CHECK.

WE ARE IN DIRE NEED OF AN INSPECTION SYSTEM THAT PROTECTS THE CONSUMER AS WELL AS THE WORKER. YES, THE CURRENT SYSTEM NEEDS CHANGES, BUT WE CANNOT RESPONSIBLY ELIMINATE BIRD-BY-BIRD INSPECTION UNTIL WE HAVE A PROVEN SYSTEM TO PUT IN ITS PLACE.

FAST SUGGESTS THAT THE DE-FEATHERING MACHINES BE CLEANED AT REGULAR INTERVALS DURING A SHIFT THEREBY PREVENTING THE INJECTION OF BACTERIAL CONTAMINATION THROUGH THE CLEANING PROCESS.

FAST RECOMMENDS THAT THE CHILLING WATER, THE SO-CALLED FECAL SOUP BE CLEANED DURING THE SHIFTS AND THAT IT BE DISPOSED OF OUTSIDE OF THE PLANT.

FOOD SAFETY INSPECTION SERVICE (FSIS) ALREADY REGULATES LINE SPEEDS TO FACILITATE INSPECTION. FAST PROPOSES THAT ONE WAY TO IMPROVE THE SAFETY OF POULTRY PRODUCTS IS TO MANDATE A LINE SPEED FOR **ALL** POULTRY PRODUCERS THAT IS SLOW ENOUGH SO THAT NO INTESTINES ARE PUNCTURED.

OBVIOUSLY, WE NEED A METHOD OF DETECTING DISEASES LIKE SALMONELLA AND CAMPYLOBACTER WITHIN A FEW HOURS OR MINUTES, NOT DAYS. THIS WILL ENABLE INSPECTORS TO IDENTIFY AND CONDEMN UNFIT POULTRY BEFORE IT IS SHIPPED FROM THE PLANT FOR CONSUMPTION.

FINALLY, FAST RECOMMENDS THAT THE USDA REQUIRE PLANTS TO DESTROY ALL CONDEMNED MEAT ON A REGULAR SCHEDULE SO THAT IT IS NOT LYING AROUND THE PLANT FOR AN ENTIRE SHIFT SUBJECTING WORKERS AND FRESH MEAT TO CONTAMINATION.

MR. CHAIRMAN, FAST IS NOT OPPOSED TO PROGRESSIVE CHANGE AND TECHNOLOGICAL ADVANCEMENT WITHIN ANY INDUSTRY. HOWEVER, THERE IS A DEFINITE NEED FOR FEDERAL INSPECTION OF POULTRY PRODUCTS. WE AGREE THAT A NEW, MORE ACCURATE SYSTEM IS NEEDED. BUT UNTIL THAT SYSTEM IS READY, WE MUST WORK WITH AND IMPROVE THE BIRD-BY-BIRD SYSTEM WE ALREADY HAVE.

THANK YOU ONCE AGAIN FOR ALLOWING ME THE OPPORTUNITY TO TESTIFY AND I WOULD BE PLEASED TO ANSWER ANY OF YOUR QUESTIONS.

The City of New York
Department of Consumer Affairs

80 Lafayette Street
New York, N.Y. 10013

Angelo J. Aponte
Commissioner

June 30, 1987

Senator Carl Levin
Chairman of the Subcommittee on
Oversight of Government Management
U. S. Senate Committee on Governmental Affairs
Washington, D.C. 20510

Dear Senator Levin:

We would like to take the opportunity to submit comments on the issue of bacterial contamination of meat and poultry for inclusion in the record of your subcommittee's May 15, 1987 hearing on the Food Safety and Inspection Service's inspection activities and their relationship to the problem of meat and poultry contamination. As I believe you are aware, the New York City Department of Consumer Affairs has done extensive research into this problem, including the role that contaminated meat and poultry play in causing a large percentage of the food poisoning cases that occur each year. Our work was summarized in a November, 1986 report which we have previously shared with you, Meat and Poultry Contamination: A Silent Public Health Hazard. As a result of our research, the City of New York has petitioned Congress and the U. S. Department of Agriculture to take various measures to ensure the wholesomeness of the meat and poultry offered for sale in this country.

An estimated 6.5 million cases of foodborne illness occur in the United States each year, at least half of which result from contaminated meat and poultry. Scientists at the Centers for Disease Control (CDC) believe these figures are conservative, and estimate that Salmonella and Campylobacter, two bacteria which cause food poisoning, may alone be responsible for up to eight million cases of food poisoning. Other microbiologists have estimated that the total annual number of cases of foodborne illness could be over 28 million. A yet unpublished study recently completed by the Carter Center at Emory University estimates that 9,000 people die every year from food poisioning, often as a result of complications. National estimates of foodborne illness costs range from one to ten billion dollars a year in lost wages, medical expenses and related costs. Costs per case of food poisoning average between $200 and $2,000.

The significant role played by contaminated meat and poultry in causing food poisoning is evidenced by our own survey of meat and poultry products sold in New York City. A sampling of 180 such products revealed that 53% of the raw chicken, 52% of the cooked roast beef, and 17% of the raw ground beef were contaminated with one or more bacteria known to cause food poisoning. As it becomes more evident that contaminated meat and poultry products are causing millions of cases of illness each year, there has been increasing discussion about what steps to take to ensure the wholesomeness of these products. Much of the debate has been focused on the inspection of the animals or products themselves, specifically, whether or not individual inspection of all products should be replaced by sampling.

While this in itself is an important issue, it is not the entire issue. In the course of our research, we studied the production cycles for meat and poultry products. It became evident to us that procedures at every stage of production need to be improved: from the raising of animals on bacteria-laden feed to unsanitary slaughter and eviseration procedures to improper handling of meat and poultry in kitchens and retail establishments, a cycle of contamination is perpetuated, the bacteria eventually infecting human victims.

Because contamination is perpetuated throughout the production process, measures need to be taken at every step along the way to prevent such contamination. This means that the United States Department of Agriculture must direct its efforts in other areas in addition to the inspection of carcasses and other products. The USDA should require more preventive sanitary practices in the feeding and handling of livestock and meat and poultry products, including mandating the use of uncontaminated feed and the maintenance of sanitary conditions in animal pens, transportation vehicles and slaughterhouses. Evisceration procedures must be improved so that bacteria-laden excrement is not smeared all over the carcasses. The Federal government must also promote consumer education on this issue and conduct research with the aim of improving sanitary conditions. Finally, Federal efforts must be complemented by local enforcement measures to ensure that meat and poultry products kept in retail cases are properly refrigerated so that bacteria do not propagate in them. Thus a variety of measures--not just regulatory--need to be employed to combat food poisoning.

The USDA's current meat and poultry inspection program has not been substantially modified since its inception in 1906. The serious problems we are facing today with food poisoning in this country evidence the need to entirely overhaul the Federal regulatory system as it relates to meat and poultry products.

Thank you.

Sincerely,

Angelo J. Aponte
Commissioner

AJA/PC/pf

# MEAT AND POULTRY CONTAMINATION:
# A SILENT PUBLIC HEALTH HAZARD

An Occasional Paper Issued by the Research Division of the
New York City Department of Consumer Afairs

Heide K. Lang, Researcher

November, 1986

The New York City Department of Consumer Affairs undertook this study because meat and poultry contamination is a serious problem. The purpose of this project is to shed light on the processes which result in contamination, and to suggest solutions to this silent public health hazard.

This report is one of a series of occasional papers issued by the Research Division of the New York City Department of Consumer Affairs.

1) The Role of the Consumer in the Changing Telecommunications Market and the Implications of the Divestiture of AT&T, October 1984.

2) Converting from Oil to Gas. Still a Wise Investment?, August 1985.

3) Lower Bumper Standards: Less Protection and More Costs, October 1985.

4) Drug Dollars and Nonsense: The Availability and Cost of Pharmacy Products and Services for Elderly Consumers in New York City, November 1985.

Copies of these publications are available from the Department of Consumer Affairs by calling (212) 577-0111 or writing to:

Research Division
NYC Department of Consumer Affairs
80 Lafayette Street
New York, NY 10013

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## Introduction

In early 1986, the New York City Department of Consumer Affairs began to examine the prevalence of foodborne illness caused by meat and poultry contamination. As the entire production cycle was explored, it became clear: Procedures at every stage need to be improved. From the raising of animals on bacteria-laden feed to improper handling of meat and poultry in the kitchen, the cycle of contamination continues. While the high rate of reported foodborne illness in New York City -- one quarter of the national total -- is most likely a result of better public health surveillance than the rest of the country, the pervasiveness of foodborne disease is unacceptable.

Millions of Americans are affected each year by food poisoning from meat and poultry. Yet too few know the full extent of the problem, or that the bacteria which causes food poisoning does not necessarily affect the look, smell, or feel of the product.

Many studies on meat and poultry production, inspections, handling, and consumption as they contribute to foodborne illness have been conducted. This report examines that research which has preceded it to create an overview of this "silent public health hazard."

The human and economic costs of foodborne illness, the pathogens, the cycle of contamination, the roles of responsible parties, reasons for change in the system, and specific recommendations are set forth in this report.

**ABSTRACT**:

- An estimated 6.5 million cases of foodborne illness occur in the United States each year, at least half of which result from contaminated meat and poultry. Scientists at the Centers for Disease Control (CDC) believe these figures are conservative, and estimate that two bacteria (Salmonella and Campylobacter) alone may be responsible for up to eight million cases of food poisoning.

- According to the most recent national annual summary data available, 50% of the cases reported to the CDC originated in New York State. Half of those cases were reported by New York City. Thus, the City reported one-quarter of the cases in the nation.

- National estimates of foodborne illness costs range from one to ten billion dollars a year in lost wages and hospital expenses.

- Although foodborne illness from meat and poultry contamination costs consumers billions, the USDA will spend only $2.4 million in pathogen control research in 1986.

- The USDA's current meat and poultry inspection program has not been substantially modified since its inception in 1906.

- The USDA -- responsible for assuring the wholesomeness of meat and poultry produced in this nation -- has never incorporated microbiological standards in its inspection programs for raw meat and poultry. Standards would limit the amount of foodborne illness-causing bacteria acceptable on meat and poultry. These bacteria, also known as pathogens, are not the same organisms that cause food to spoil and are not superficially detectable by inspectors and consumers.

- Meat and poultry regulatory policy from feed to refrigeration is weak or not enforced. Refrigeration of transportation vehicles is not required, although specific temperatures of the cargo must be maintained.

- Practices resulting in food poisoning include the use of spoiling meat in both animal feed and luncheon meats, and the use of unsanitary equipment during processing.

- The United States Department of Agriculture (USDA) estimates that 37% of the chickens produced in this country are contaminated with Salmonella. A study by the USDA Agriculture Research Service indicates that approximately 30% of the chickens produced may also be contaminated with Campylobacter.

- The USDA allows the use of chlorine to sanitize chicken and red meat, although the chemical is more frequently used on chicken. While such substances are effective in reducing the

number of pathogens on the product, scientists are still exploring the risks posed by the use of the chemical. The USDA also allows the industry to use flavor enhancers, such as monomonium glutamate, in order to put back the flavor "sanitizers" may take out.

- Federal efforts to reduce the incidence of foodborne illness have been aimed at educating consumers. The results of these efforts have been shown to be largely ineffective. In a 1974 Gallup poll, results indicated that 74% of the women surveyed did not know that Salmonella is a bacteria which may cause food poisoning; 66% did not know how to minimize the spread of pathogens within the home; and 39% were certain that raw meat and poultry on the market are inspected for Salmonella, when in fact they are not.

- Common pathogens known to cause food poisoning are Salmonella, Campylobacter, Staphylococcus aureus (S.aureus), Clostridium perfringens (C.perfringens), and Escherichia coli (E.coli). Bacteria, such as Salmonella and Campylobacter, include hundreds of different strains, all having specific names (e.g., S.dublin, C.jejuni).

## Chapter One

## THE HUMAN AND ECONOMIC COSTS OF FOODBORNE DISEASE

### Summary

While only estimates on the actual number of cases are available, it is clear that food poisoning is a major public health problem. It is estimated that at least 6.5 million consumers will be afflicted by a foodborne illness in 1986. Scientists at the Centers for Disease Control (CDC) state that contaminated meat and poultry are implicated in at least half of the foodborne illness cases in the United States. In order to assure that meat and poultry products are safe from contamination, dramatic changes in meat and poultry production and greater budget allocations for public health programs are necessary.

In justifying expenditures for such programs, policy makers weigh costs and benefits to the public. Foodborne illness costs taxpayers and industry billions of dollars annually, yet little is being done to root out the problem. This section will explore why dramatic policy change is not occurring in Washington, and why consumers remain largely unaware of the personal expense in health, time, and money resulting from foodborne illness.

Introducing programs aimed at reducing bacteria on meat and poultry has been difficult to justify because the United States does not have a surveillance system which uniformly records the incidence of foodborne illness. State health departments do not always provide reliable figures on foodborne outbreaks, partly because minor incidences are often not reported, and only Salmonella bacteria is given surveillance attention by all fifty states. This passive surveillance system makes it difficult to calculate the real number of cases, which would justify greater expenditures for foodborne illness prevention programs.

### Human Costs

Public health officials and the federal government state that millions of Americans suffer from food poisoning every year. The USDA acknowledges that there are at least a total of two million individual cases of foodborne illness annually, but concedes that the Department has not conducted a thorough investigation. The CDC -- the federal agency mandated to study and report on conditions affecting public health -- believes that the number of food poisoning cases caused by meat and poultry alone is higher than three million.

A yet-unpublished comprehensive study recently completed by the Carter Center at Emory University (Closing the Gap) estimates that 6.5 million people are afflicted by foodborne illness and

9,000 will die every year, often due to complications. A scientist specializing in intestinal diseases at the CDC states that the 6.5 million annual cases noted in the report represents a sound estimate, but that the affliction rate of two leading causes of foodborne illness (Salmonella and Campylobacter) alone may be as high as eight million (Tauxe, Personal Communication, 1986). Other microbiologists have estimated that the total annual number of cases of foodborne illness could be over 28 million (Archer, et al., 1985).

The CDC estimates are derived from national surveillance data which is collected from public health authorities in each state and published in annual summaries. The number of reported outbreaks -- an incident in which two or more persons experience a similar illness after the ingestion of a common food, and epidemiological analysis implicates the food as the source of the illness -- represents only a fraction of the actual number of cases. The CDC uses the number of reported cases to extrapolate the full extent of the problem.

Thousands of individual cases and minor outbreaks are never reported to the CDC or public health authorities because the illness may last only a few days, or because many of those afflicted are unaware that their suspected virus is really food poisoning. The 1974 Proceedings on Food Protection, which explored issues involving food hazards, notes this serious flaw in surveillance activity. "The quality of data collected is variable and at times may be unreliable" (DHHS, 1984).

Whether illnesses are reported to public health authorities as food poisoning or at all depends upon the magnitude of the incident. As the CDC's 1982 Annual Summary of Foodborne Illness notes, "The likelihood of an outbreak coming to the attention of health authorities varies considerably depending on consumer and physician awareness, interest, and motivation to report the incident; for example, large outbreaks, interstate outbreaks, restaurant-associated outbreaks, and outbreaks involving serious illness, hospitalizations, or deaths are more likely to come to the attention of health authorities than cases of mild illness following a family cookout" (DHHS, 1985).

The lax surveillance activity is illustrated by a survey published in the American Journal of Public Health which analyzed reporting activity in Washington State (population 3,000,000) for the year 1969. The survey revealed 69 foodborne outbreaks resulting in 1,135 individual cases. In contrast, only 371 food and waterborne outbreaks and 28,563 individual cases were reported by the CDC for the entire country (population 200,000,000). If the incidence of disease and the surveillance activity in Washington State were similar to those of other states in 1969, about 4,600 outbreaks and 76,000 cases should have been reported to the CDC. "Even at these higher estimates, the figures must be multiplied by factors of unknown magnitude to account for the still undetected foodborne outbreaks and cases, including those gastrointestinal illnesses that could not be conclusively linked to food (Hauschild et al., 1980).

Little-known bacteria which cause foodborne illness can also contribute to inaccurate reporting. For example, the most recent surveillance data available indicates that only .2% of foodborne illness is attributable to Campylobacter, but this is because local health departments often do not report this bacteria. "There is an enormous number of foodborne cases from Campylobacter that goes unreported. We estimate two to four million. It is thought to be more of a problem than Salmonella but we just don't know enough about it," observes one scientist at the CDC. "We encourage localities to report cases, but each state has it's own area of emphasis. The New York City Health Department took the lead early on, but unfortunately even in New York there is an enormous number of cases of foodborne illness that goes unreported" (Tauxe, Personal Communication, 1986).

A higher proportion of food poisoning cases is reported in New York State compared to the rest of the country. The most recent CDC statistics available indicate that out of 656 outbreaks, New York State reported 323; 160 of those outbreaks were reported by New York City. The CDC report notes, "While it is possible that New York has an increased rate of foodborne disease, it is more likely that such a high proportion may represent differences in surveillance activity" (DHHS, 1985). New York City has reported 25% of foodborne illness cases from 1972 to 1982. No annual summary of national surveillance data since 1982 has been available.

## Economic Costs

Epidemiologists and food microbiologists estimate the extent of foodborne illness in a given city, county or state. These estimates are then used to determine the public cost of such illness and to justify expenditures for control programs. In light of the shortcomings in surveillance activity, microbiologists cannot always arrive at precise numbers.

In the 1984 Proceedings on Food Protection, published by the U.S. Department of Health and Human Services and the Food and Drug Administration, it was estimated that the economic impact of foodborne illness in the United States is between one and ten billion dollars a year. "If it is assumed that there are five million cases each year, the average cost per case would range from $200 to $2,000" (DHHS, 1984).

Although no detailed analysis of the estimated annual costs of foodborne disease is available, several studies have examined the costs of specific foodborne disease outbreaks. A 1978 study in the New England Journal of Medicine provides a cost breakdown of a Salmonella outbreak involving 134 people: "Medical costs ranged from $125 to $1,750 [per person]. Lost income or productivity accounted for 26% of the total cost of the outbreak; 87% of the employed patients lost an average of 12 days from work and 39 family members missed an average of three workdays caring for a patient."

The study also showed that salmonellosis and other foodborne illnesses are more than expensive inconveniences. "The outbreak examined in the study was responsible for complications, operations, and hospitalizations of five to six days for previously well persons in all age groups, not just infants and the elderly. It also demonstrated that salmonellosis is expensive not only for those who are ill, but also for society, as such outbreaks adversely affect the economy. Since this is a preventable disease, the cost of public health programs to detect, control, and prevent salmonellosis must be measured against the unnecessary medical expenses and loss-of-productivity cost" (Cohen et al., 1978).

In addition to direct expenses, consumers also bear indirect costs. "Education of administrators and politicians, and costs relating to food spoilage, foodborne disease and recalls are eventually borne by the public, whether they are the victims of illness, or are shareholders trying to recover from a recall or are taxpayers responsible for funding of government health control agencies and loans to help bail out industries that have poor quality control" (DHHS, 1984).

## Special Victims

Infants, the aged, the malnourished, and those suffering from an immune system deficiency are particularly susceptible to foodborne illness. Immune-compromised patients do not have adequate defenses to fight off infection. Those suffering from AIDS or receiving chemotherapy treatment, for example, should avoid all raw or undercooked meat or poultry. Thus, quack "treatments" which recommend that cancer victims eat raw liver can be extremely hazardous, even deadly.

The USDA is aware of the particular seriousness of the problem for highly susceptible persons. In a speech at the 1984 International Symposium on Salmonella, the Director of the USDA's Food Safety Inspection Service (FSIS) explained: "These individuals may be the recipients of organ transplants or they may have undergone other types of surgery; they may have received chemotherapy for treatment of cancer: they may be suffering from diseases that affect the immune mechanism. In any event, immune-suppressed persons are exceptionally vulnerable to environmental contaminants and invasive bacteria, especially in the food supply. A recent Salmonella dublin outbreak in California affected 24 persons, all of whom were immune-compromised in some way."

He continued, "Individuals may have been successfully treated for heart, liver or kidney problems and yet they may succumb to infection by bacteria that would be of lesser concern to most people. Of course, what I have said about the potential effect of Salmonella on immune-suppressed individuals can be said about other organisms. Because of the growing number of immune-suppressed persons, there has been increased concern about the potential lethality of Campylobacter...Although statistics on the scope of the problem are lacking, recent incidents of infections of immune-compromised individuals by these organisms have drawn our attention to the problem" (AAAP, 1984).

## Chapter Two

## PATHOGENS THAT CAUSE FOOD POISONING

### Summary

Both the federal government and industry claim that although bacteria which causes food poisoning exist on meat and poultry they will be killed when the product is heated. Contrary to this position and what many consumers believe, cooking does not necessarily kill all bacteria. Foodborne illness-causing pathogens are often spread through cross-contamination and time-temperature abuse. Uncontaminated foods, such as lettuce, can be contaminated through contact with the same surface as the raw meat or poultry, or by a butcher touching one piece of meat, then another, with contaminated hands. Some bacteria actually grow when heated unless a temperature of 140 degrees or above is maintained. The larger the number of bacteria per gram, the greater the chance of the bacteria to grow or spread.

### Salmonella

Salmonella is the general name applied to a group of approximately 2,000 closely-related bacterial strains. This group of bacteria ranks among the three leading causes of foodborne disease in the United States. Since Salmonella can survive under many environmental conditions, it is a difficult bacteria to control (AAAP, 1984). Poultry is considered to be the most important host of Salmonella; the USDA, in fact, recognizes its presence on 37% of the chickens sold today (Green *et al*., 1981).

Conditions leading to outbreaks of salmonellosis and other forms of bacterial food poisoning may result from inadequate cooking of contaminated foods, especially large pieces of meat such as a roast beef or turkey. If a food product contaminated with a pathogen has not been thoroughly cooked, the organism may not be killed. Also, a slow cooling process allows bacteria to multiply. Foods may become recontaminated in a kitchen by unhygienic practices, such inadequate washing of hands, or the re-use of unwashed utensils, tabletop surfaces, and cutting boards.

The number of reported cases of salmonellosis in humans has steadily increased in the past 20 years (See Appendix D). Any member of the genus Salmonella presents some degree of hazard to human health. Some, notably Salmonella typhi, pose a severe hazard. Salmonellosis, like many other forms of food poisoning, is a gastrointestinal disease. The incubation period is approximately six to forty-eight hours. The symptoms include diarrhea, nausea, vomiting, abdominal cramps, and sometimes fever. The illness usually lasts from two to four days, but children under the age of four, the elderly, and those suffering from an immune deficiency may become more seriously ill (DHHS, 1984).

## Campylobacter

Although Campylobacter is only cited .2% of the time as a cause of foodborne illness in the CDC's most recent published surveillance data (1982), Campylobacter is thought to be the second leading cause of food poisoning in the United States. A 1985 study conducted by the Agriculture Research Service, the research arm of the USDA, found that 30% of the chickens it tested harbored Campylobacter organisms (Stern, et al., 1985). The organism is widespread in the food supply: raw meats, unpasteurized milk, or unheated foods of animal origin are often vehicles of the most common Campylobacter strain, known as C.jejuni. Results of limited studies suggest that only a small number -- 500 cells -- of C.jejuni needs to be ingested to produce human illness.

Studies indicate that more than 50% of healthy poultry, swine, and cattle excrete C.jejuni in their feces. This pathogen is likely to be smeared on the carcass of livestock and chicken at slaughter (DHHS, 1984).

Campylobacter was not established as a human pathogen until 1971. In many instances the course of Campylobacter enteritis is more severe and of longer duration than salmonellosis. The incubation period of two to seven days is followed by symptoms of fever, headache, and abdominal pains, then by profuse, watery diarrhea with blood, pus or mucus. Sometimes symptoms are so severe that hospitalization is required. Deaths associated with Campylobacter are infrequent: They tend to be concentrated among the young and the elderly.

## Clostridium Perfringens

Poisoning by Clostridium perfringens (C.perfringens) is also among the most frequently reported cause of foodborne illness in the United States. Although the presence of a small number of C.perfringens in many foods is unavoidable, large numbers may be indicative of mishandling, including temperature abuse (NRC, 1985b).

Animal carcasses and cuts of meat can become contaminated with C.perfringens from soil, animal feces or workers' hands during slaughtering and processing (Bryan, 1980). C.perfringens is the pathogen of most concern in pasteurized or low-heat processed meats and poultry. Cooking kills competitive organisms but allows heat-resistant C.perfringens spores to survive (NRC, 1985a).

C.perfringens are spore-forming bacteria; sporeformers can withstand heat and germinate when temperatures become favorable for growth. For example, if the temperature of meat or gravy drops to room temperature just after cooking, C.perfringens is one of the first species of bacteria to multiply (at about 115 degrees Fahrenheit). These organisms can double their number every eight to twelve minutes under optimal conditions (Bryan, 1980). The 1984 Proceedings on Food Protection noted, "This is one of the fastest growth rates reported for bacteria. The combination of its widespread presence and its ability to grow rapidly at relatively high temperatures accounts for C.perfringens being a leading cause of foodborne disease in this country" (DHHS, 1984).

The illness caused by C.perfringens has an incubation period of eight to twenty hours, and is characterized mainly by abdominal cramps and diarrhea which last twelve to twenty-four hours; fever and vomiting are infrequent. Enterotoxins -- toxic substances produced and released by certain bacteria -- are responsible for the symptoms. The illness is usually mild, but death may result if the victim is very young, elderly, or has underlying health problems.

## Staphylococcus Aureus

Staphylococcus aureus (S.aureus) is a less common cause of foodborne illness. This bacteria is usually spread by food preparers or equipment that is not properly cleaned. Surveys have shown that 30 to 50 percent of the human population carry S.aureus in the nose or throat. As a result, there is ample opportunity for contamination of food during handling. The chances of contamination are greatest with food handlers who have skin infections. Contamination may also result from coughing or sneezing by carriers (DHHS, 1984). Because cleaning procedures for meat slicers are sometimes inadequate, sliced meat, such as roast beef and ham, are often linked to staphylococcal foodborne disease, also known as SFD (USDA, 1985).

If food contaminated with S.aureus stands at room temperature above 45 degrees Fahrenheit for more than two hours, the bacteria begin to multiply. Some staphylococcal bacteria may produce toxins when bacteria reach high levels. Moist meat dishes and starchy foods provide an excellent medium for growth and are frequent sources of food poisoning.

Nausea, vomiting, diarrhea, abdominal cramps, sweating, and weakness are common symptoms of this illness and evidence themselves within one to seven hours after ingestion of the toxins. The illness lasts from a few hours to several days. Although SFD is generally considered a mild illness of low mortality, hospitalization rates have been found to be as high as 14 percent (Holmberg *et al*., 1984).

## Escherichia Coli

Earlier studies indicate that levels of Escherichia coli (E.coli) are merely a reflection of overall sanitation, not a cause of foodborne illness. However, one strain of E.coli bacteria known as HEC (E.coli 0157:H7) is believed to cause a very severe form of food poisoning. Since this bacteria was only recently discovered, no reliable statistics regarding the frequency of illness from it are yet available. The CDC's most recent surveillance report notes two outbreaks of HEC. Both outbreaks were associated with eating hamburger from the same fast-food restaurant chain. The illness is characterized by bloody diarrhea, abdominal cramps and low-grade fever. (DHHS, 1985).

A statement issued by the Food Research Institute warns, "E.coli are not just benign organisms whose sole function in life is to reveal unsanitary practices. Children have been hospitalized with hemolytic-uremic syndrome (HUS), a condition that may result from HEC poisoning. This is a serious urinary tract disease that often leads to renal failure, dialysis, and blood transfusions. Death is not uncommon, especially among children" (Food Chemical News, 1986).

## Pathogenic Resistance to Antibiotics

Physicians frequently prescribe antibiotics to victims of food poisoning in order to halt the illness. Antibiotics, however, are not effective in killing resistant bacteria. If the strain of bacteria is hardy and resistant to antibiotics, such treatment may do more harm than good because the antibiotics may kill off harmless bacteria, thereby giving the poisoning organism more room to grow. Therefore it is not usually beneficial to take antibiotics in order to to suppress a foodborne infection: Many microbiologists believe water is the drug of choice during a mild case of food poisoning.

## Chapter Three

## THE CYCLE OF MEAT AND POULTRY CONTAMINATION

### Summary

The conditions in which animals are raised, slaughtered, and processed directly lead to meat and poultry harboring bacteria which cause foodborne illness. Animals become infected with bacterial organisms through contaminated feed, infected animals -- including rodents -- and other environmental conditions.

Industry claims that while the breeding and post-slaughter environment may seem filthy, it is the only way of supplying America with a major source of protein at a reasonable price. The USDA concurs, stating that microorganisms are a normal constituent of meat and poultry. USDA literature stresses that the levels of bacteria introduced in the breeding environment, slaughter houses, and post-slaughter stages cannot be reduced in a cost-effective way. However, many of these processes exacerbate the prevalence of pathogens in meat and poultry.

### Animal Feed

Animals destined for slaughter ingest substances which are passed on to humans in the next link of the food chain. Thus, it is important that the food source of an animal is not contaminated. Nevertheless, animal feed often contains contaminated ingredients which are reflected in the animals' waste. Current slaughter procedures often result in pathogen-laden excrement being smeared on carcasses. The more pathogens present in the excrement, the greater the odds that organisms which cause foodborne illness will remain on the surface of meat and poultry.

Some components of animal feed are rendered products: animal protein by-products, such as intestines and meat scraps, that are heated into a meal. A disturbing finding is that meat considered unfit for human consumption is a common ingredient found in rendered products. The National Academy of Science (NAS) subcommittee responsible for compiling An Evaluation of the Role of Microbiological Criteria For Foods and Food Ingredients explains the rationale behind using condemned meat as a constituent of animal feed:

"As a rule, a raw material that is judged unsatisfactory for one purpose based upon failure to meet purchase specification limitations may be quite useful for another purpose...Frequently a product that is considered unfit for human consumption is diverted into animal feeds. Inedible meat, poultry, and fish are rendered and the resultant high protein meals are used as components of animal feeds. These procedures are justifiable, but not if the diversion ultimately results in perpetuation of a problem in the human population [emphasis added]" (NRC, 1985b).

"The hopes of eradicating salmonellosis in humans and in other animals will never materialize without elimination of salmonellae from animal feedstuffs," explains a former CDC microbiologist who is an expert on foodborne illness. He also notes that Salmonella, along with other bacteria, can contaminate feed ingredients transported in trucks or boxcars previously used to transport animals, contaminated materials, or fertilizers (Bryan, 1981).

In addressing the purity of the animals' food source, industry asserts that clean feed is very difficult to maintain unless the rendered products are processed properly. The FDA and USDA do not believe that control attempts designed to reduce levels of bacteria in animal feeds will alleviate the problem of meat and poultry contamination. The head of a microbiological laboratory in California writes, "The FDA and USDA have concluded that there are many potential sources of Salmonella infection in animals, but no single source can be implicated as most important. The USDA and FDA believe that programs to control Salmonella in feed and feed ingredients would be too costly for the benefits gained" (Siliker, 1982).

A 1974 General Accounting Office (GAO) report to Congress on food poisoning notes that even animal feed which is sufficiently sterilized by heating can become re-contaminated because of unsanitary storage conditions and infestation by other animals, including rodents and insects, which carry bacteria. At a 1984 international symposium examining Salmonella, one microbiologist said, "I wonder whether any of you has ever tried to enter a broiler house at one or two o'clock in the morning and have seen how many rodents there are. Sometimes there are more rats than broilers. I wonder therefore, what is the purpose of distributing (pelleted) Salmonella-free feed in such a contaminated environment." Another scientist added, "We have [bacteria] carrier rates up to 90% due to the fact that these feeds were contaminated later, not only by rats and mice, but by insects contaminating feeds" (AAAP, 1984).

In order to make the use of clean feed meaningful, chicken houses should be required to be rodent proof. Without such a requirement, little can be achieved by using sterilized feed.

## The Breeding Environment

Large-scale fowl or stock breeding contributes to the contamination cycle by the typical crowding of too many fowl and cattle into houses and feed lots. Animals often share food and water, and stand in very close proximity to one another. A former CDC expert on foodborne illness notes, "They walk and sometimes lie in feces. The feces can also get into their feed and drinking water. Salmonella introduced by feed or any other source can spread rapidly by cross-infection" (Bryan, 1981). Other pathogens associated with meat and poultry, such as Campylobacter, are also spread in this way.

An industry representative in charge of research and quality at one of the country's largest chicken processors acknowledges the problems characteristic of the breeding environment: "Livestock and poultry are not grown in a sterile environment. Contrary to much publicity and misconception in many consumers' minds, broiler chickens are not grown in cages, they are produced on litter, such as wood shavings over dirt floors. Thus, live birds arriving at a processing plant have been subjected to a variety of microorganisms from dust, soil, feces, insects, man and perhaps, rodents and reptiles" (AAAP, 1984).

## Transportation to Slaughter

The environment in which animals are transported provides another opportunity for contamination to be initiated or exacerbated. Many young animals, especially cattle and pigs, are produced at one location and transported elsewhere for further growth before slaughter.

"This practice [of long-distance transport] creates unusual health risks for the animals -- sometimes leading to threats to human health...Long-distance transport, often without adequate feed or water, is directly stressful which reduces the animals's immunological responsiveness" notes an NAS Subcommittee report entitled, Meat and Poultry Inspection: The Scientific Basis of the Nation's Program (NRC, 1985a).

One CDC microbiologist adds, "Remember, these animals have been vaccinated, castrated and separated from their mothers. The cattle for example, may be standing knee-deep in feces while they are transported. They are surrounded by wild birds and vermin. There is very little concern over what makes them sick. The name of the game is to push their growth as fast as possible while packing them in" (Potter, Personal Communication, 1986).

The NAS report also notes, "During such moves, the animals almost always have new sources of feed and water, and they may be exposed to new cohorts of animals that harbor infections not previously encountered. Furthermore, information on the origin of the animals, and thus any history of medication or food additives, is often lost during movement to distant feeding locations" (NRC, 1985a).

In June of 1986, the USDA announced that plans were on the drawing board for a national mandatory producer identification program for livestock brought to slaughter (Food Chemical News, 1986). An identification program would make it possible to trace the original source of contaminated animal. This program, should it become established, would be a positive step toward the control of contamination by allowing the identification of the originating herd or flock.

## Post-Slaughter

In several ways, post-slaughter procedures for chickens promote microbiological contamination. The procedure used to remove feathers, the evisceration stage in which internal organs are removed, and the chill-water process contribute to the spread of bacteria on meat and poultry.

The method by which poultry feathers are removed is partly responsible for the spread of bacteria. Chickens are cramped in crates which become filled with feces. The frightened birds defecate, and as the animals attempt to move about, their filth is spread. When birds are brought for slaughter, the feathers are taken off by a machine that literally beats them off with rubber fingers. These pluckers get covered with feces which fills up the holes of the chicken skin. As a result, some of these chickens become heavily contaminated (Potter, Personal Communication, 1986).

When intestines are removed by a device called an eviscerating machine, further contamination occurs. The head of the National Association of Federal Veterinarians recently discussed this problem with a National Academy of Science committee. He explained that one common cause of contamination is the "tearing of intestines by automatic eviscerating machines which often distributes fecal material throughout the body cavity of the bird. When the use of automatic eviscerating machines became widespread in the 1970's, intestine tearing also increased, and the USDA's Food Safety Inspection Service (FSIS) was forced by industry to stop condemning all or part of heavily contaminated birds, and instead now allows fecal contamination to be 'washed' from the body cavity" (Food Chemical News, 1986).

After chickens have been slaughtered, plucked and eviscerated, they enter the "chill-water" stage, which is designed to reduce their body temperature. This process leads to the absorption of bacteria-laden water by the chickens and promotes cross-contamination.

The head of the National Association of Federal Vetrinarians added that washing of contaminated carcasses "removes only the gross evidence of contamination...The problem is further compounded by pressure from the industry to reduce the amount of clean water that they must continuously add to their chillers. While the industry has sought to use ever decreasing amounts of water needed to keep chilling tanks cleaner, it has been unwilling to eliminate water chilling. Federal regulations allow each carcass to soak up as much as eight percent water during the chilling process. This enables the sale of hundreds of thousands of gallons of water at poultry meat prices, a profit that the industry is unwilling to forego. The addition of the water to the poultry meat is not required to be put on the label so there is no competitive incentive for processors to use chilling systems that do not result in water absorption. Unless significant changes are made in the inspection policies and procedures, we can expect to see a continuing rise in the prevalence of human enteric disease contracted from poultry meat" (Food Chemical News, 1986).

"Before they are placed in the chill-water," notes one CDC microbiologist, "some chickens are contaminated, some are not. When put into the chill water, every one is contaminated. The problem is that the chickens that were not contaminated become so, because they are in the same bath with feces-covered chickens. More manpower and machinery is needed to improve the [poultry production]. But that costs money. In order to be competitive, it becomes an issue of quality control" (Potter, Personal Communication, 1986).

Unsanitary utensils and equipment can also contaminate raw meat and poultry that is cut and trimmed for shipment. Likewise, the physical plant and sanitary conditions of the workers can contribute to the cycle. In Return to the Jungle, a report published by the Center for the Study of Responsive Law, one federal inspector noted that Salmonella bacteria is a serious problem in the plants caused by "improperly cleaned knives and cutting boards" (Hughes, 1983).

## Disinfectants and Sanitizers

Chemicals reduce bacteria levels but do not eliminate contamination. Their applications are an attempt to improve the bacterial quality of meat and poultry. But attempts to lower bacteria levels by artificial means may be more damaging to the consumer's health than food poisoning; some of these chemicals as well as irradiation methods may be carcinogenic.

Chlorination, for example, is sometimes used to eliminate both fecal and spoilage bacteria from the water used for chilling eviscerated poultry carcasses. "Chlorination involves exposing meat and poultry to sprays or flumes containing relatively high concentrations of chlorine. While such treatments improve microbiological quality, other quality attributes such as the flavor may be adversely affected, since chlorine reacts with numerous food constituents such as amino acids, lipids, and chlorophyll. At present it is not known whether these different chloro-organic compounds are harmless" (NRC, 1985b). Processors are also permitted to use flavor enhancers, such as monomonium glutamate, in order to re-introduce the flavor that may have been lost after chlorination.

## Irradiation

Currently, the USDA has proposed that irradiation be used to extend the shelf life of meat and poultry. This proposal does not apply to pork, which is already subjected to low levels of radiation to reduce the incidence of trichinellosis. Irradiation is already used to stretch the shelf life of potatoes, apples and spices. Studies are still underway in order to determine the effects of irradiation on humans, but conclusive results may not be available for decades. Scientists believe irradiation may set off a "free radical" process, a reaction which believed to be capable of mutating healthy human cells resulting in cancer.

## Processed Meats

Processed meats such as ground beef, "chunked and formed" deli products, and luncheon meats pose special risks. The processing of carcasses into primal, subprimal and retail cuts of meat increases their surface area and leads to further introduction and transmission of bacterial contaminants. Chemical additives are often used in processed meats to reduce bacteria and mask characteristics associated with spoilage.

### - Ground Beef

The shelf life of ground meat is shortened because of contamination which occurs during its processing. A 1985 National Academy of Science Subcommittee report entitled, An Evaluation of the Role of Microbiological Criteria For Foods and Food Ingredients notes, "The shelf life of in-store produced ground beef is relatively short, due in part to high microbial numbers in the raw materials, but also due to lax practices with respect to equipment, sanitation, and temperature. The possibility of illness from a product containing several ingredients, such as ground beef (which may include several cuts of meat, trimmings, spices, etc...) is greater because bacteria lie on the surface of meat and trimmings. The greater the amount of surface area mixed together, the greater the amount of bacteria within the product." The report also warns that "microbial contamination, is likely to be ten to 100 times greater in comminuted (ground) meat than in whole cuts of meat. The situation is similar for mechanically deboned meat and poultry parts that are ground, crushed, centrifuged or extruded" (NRC, 1985b). In addition, raw ground beef can also constitute a trichinellosis hazard if the grinder was previously used for contaminated pork.

### - "Chunked and Formed" Meats

"Chunked and formed" meats appear to be whole cuts of meat, but are actually smaller pieces molded together. A substantial volume of chunked and formed products are distributed to foodservice establishments and delicatessens. The most common chunked and formed products are roast beef and ham. There are particular dangers associated with roast beef, however, because it is a partially rare product.

These meats are mechanically deboned and re-formed. Roast beef or deli ham found in some stores might be a heated compilation of meat close to the bone which is shaped and "conformed" with injections of phosphates, sodium compounds, flavor enhancers (e.g., monosodium glutamate), and chemical preservatives (e.g., nitrites).

"Chunked and formed," or other labeling representing this process, appears on the plastic packaging. Consumers, however, generally do not see the label when purchasing roast beef, because deli meats are usually ordered "by the pound" and are sliced by store personnel. Like ground beef, these cuts are more susceptible to bacteria. Several surfaces are mixed, and the needles, also known as "stitch pumpers," used to inject chemicals, spices and water, are unsterilized during usage. This allows surface contamination into the center of the roast (Allsmeyer, Personal Communication, 1986).

- Luncheon Meats

Luncheon products include cold cuts, such as bologna and salami. The USDA permits overaged meat, or "reworked" product, returned from retail stores to be used in the production of luncheon meats. "If raw materials of poor microbiological quality are utilized," notes an NAS report on microbiological criteria, "the shelf-life of the finished product will be correspondingly compromised. It is common practice in the meat industry to use 'rework' product as a raw ingredient in cooked products. Such product may be generated 'in plant'...the USDA permits the use of over-age product returned from retail stores if it is not organoleptically [detectable by sight, smell, and touch] spoiled. At least in part, rework consists of over-age product. Such raw material may have extremely high loads of microorganisms. A processor experiencing a problem with short shelf-life in his products will have an increasing amount of them returned from the trade and thus increasing amounts that he is tempted, for economic reasons, to rework."

In addition, the report notes that "various natural spices, like black pepper, may contribute large numbers of aerobic sporeforming bacteria to a sausage or luncheon meat emulsion. These organisms survive the heat process and at times are the predominant microorganisms. They constitute neither a spoilage nor a public health hazard in properly refrigerated cooked cured meats; however, occasionally they may cause product spoilage during the heat process, particularly with large pieces of sausage such as bologna, which must be subjected to a long heat process" (NRC, 1985b).

Most hazardous, however, is the potential for a major regional outbreak resulting from unsanitary conditions in the processing plant. A contaminated slicer blade, for example, could contaminate every piece of meat it touches and lead to a large outbreak of foodborne illness.

## Shipping and Refrigeration

Additional risks to public health can exist after meat and poultry products are shipped from processing plants. The bacteria already present on meat and poultry can grow if proper temperature levels are not maintained during transport.

In New York State, trucks transporting perishable goods to retail food stores and foodservice establishments are not required to have refrigeration per se, although temperature maintenance is mandatory. The temperature for fresh foods must be maintained at or below 45 degrees Fahrenheit. The State Department of Agriculture and Markets is responsible for the conditions and temperature of inspecting trucks carrying perishable goods.

## Retail Sale

The cycle of contamination can continue when meat and poultry products finally reach retail stores or foodservice outlets, such as restaurants, hopsital kitchens and cafeterias. As in the slaugherhouses and processing plants, dirty grinders, contaminated surfaces, temperature abuse, and unsanitary work habits can cause the spread of bacterial contamination. Cross-contamination can occur among raw items and between raw and cooked foods if rotisseries or deli operations are nearby (NRC, 1985a). The State Department of Agriculture and Markets inspects the conditions and temperature at which meat is sold in supermarkets, butchers, and grocery stores. The City Department of Health is responsible for the conditions and temperature of meats sold at take-out delis in New York City.

## Chapter Four

## WHERE DOES RESPONSIBILITY LIE?

### Summary

Improving the conditions that cause foodborne illness will require a comprehensive effort on the part of industry and government. Every step of the cycle -- from feed to refrigeration -- needs to be addressed.

The USDA receives its mandate from the federal Meat and Poultry Inspection Acts of 1967 and 1968, which prohibit the sale of unwholesome meat and poultry. While it appears as if the presence of pathogens violates this law, the USDA argues that pathogens are ubiquitous, both on animal farms and in slaughterhouses. This argument is also used to circumvent a major flaw with current meat and poultry inspection program; inspectors base condemnation on sight, smell, and touch, the same system used since the program's inception in 1906. Critics claim that a change is long overdue.

Furthermore, budget cuts in recent years have led to the "streamliing" of inspection procedures, which translates to fewer inspectors and faster line speeds. Instead of designing programs to prevent bacterial contamination, the USDA has endorsed less expensive methods of dealing with contamination. Chlorination, for example, is permitted to be used even though scientists are still exploring its potential adverse affects on human health.

Last, it is important to keep in mind that although contamination originates in meat and poultry during the production and handling processes, food handlers, whether they be in a restaurant, store, or consumer's kitchen, are responsible for safeguarding against the growth and spread of pathogenic organisms.

### The USDA's Statutory Mandate

The United States Department of Agriculture's statutory mandate to ensure the wholesomeness of the meat and poultry produced in this country is set forth in the Federal Meat Inspection Act of 1967 and the Poultry Products Inspection Act of 1968. These acts updated the Federal Meat Inspection Act of 1906. The statutes require the USDA to prevent the sale of food that is unwholesome, spoiled or deleterious to health.

The USDA's operations, which reflect its current interpretation of its statutory mandate, fail to meet the challenge. Both acts require that meat and poultry should be considered adulterated "if it bears or contains any poisonous or deleterious substance which may render it injurious to health." Furthermore, they state that a product is adulterated "if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any reason unsound, unhealthful, unwholesome, or otherwise unfit for human food." A product containing pathogens which cause food poisoning fits the description of a poisonous or deleterious substance which is unsound, unhealthful, and unfit. Nevertheless, the USDA does not automatically condemn such products. According to the law, meat and poultry products are also considered adulterated if they have "been prepared, packed or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health."

The Department of Agriculture's Food Safety Inspection Service (FSIS) is responsible for preventing the interstate shipment of unwholesome meat and poultry. Since microbiological standards are not placed on meat and poultry, it is unlikely that pathogen-contaminated products would be pro-actively condemned by the USDA.

Currently, the USDA has no plans of introducing microbiological standards for raw meat and poultry products. The Department relies upon an informal policy regarding microbiological testing. A meat packer or processor may voluntarily request that the government condemn their meat for microbiological contamination.

Meanwhile, the Food and Drug Administration prohibits the sale of Salmonella-contaminated turtles, frogs legs, and Siamese shrimp in interstate commerce. This federal policy conflict in which the sale of Salmonella-contaminated animal and fish products is prohibited by the FDA, while contaminated raw meat and poultry products destined for human consumption are allowed by the USDA to be transported and offered for sale, is irrational.

## USDA Responsibility

### - Justifications of the Current Inspection System

Industry representatives argue that the level of microbiological contamination in raw meat and poultry products is so pervasive that any broad-scale attempt at curbing food poisoning organisms could not be cost-effective. It is further posited that the cost of microbiological standards would be unreasonable to industry.

Further, industry asserts that pathogens, especially Salmonella, are ubiquitous in breeding and slaughter environments: Any effort to control levels of bacteria would not meet the goal of "zero-tolerance" and is therefore futile. A representative from the Meatpackers Council in Canada defends industry's position: "It is not yet commercially possible to market some food in a condition that approaches the absence of pathogens. For example, most meats contain Salmonella at relatively high frequency and no immediate solution is in sight...[Microbiologists] have stated: ...Absolute absence (zero-tolerance) is a condition which can neither be attained by, nor verified by any practical means. It is a figment of the bacteriolgist's imagination...making increasingly difficult demands upon the manufacturer" (Holland, 1978).

Not all of industry agrees. A representative of Swift & Company, a major meat processor and packer, believes that the zero-tolerance argument is poor. "The bacterium gains entrance to the food plant environment by some means, establishes itself, and multiplies as part of the normal flora. Once these sites are detected and corrections are made, it is possible to eliminate the organism. In some instances this might be more correctly stated as bringing the population of salmonellae under control to the point where it is not detectable. Salmonellae need not be ubiquitous in a food processing environment. There is a reason for the presence of salmonellae and the bacteria can usually be brought under control" (Tompkin, 1976).

Many microbiologists also disagree. Using contaminated feed as an example, one prominent Canadian microbiologist notes, "I think one of the greatest injustices that has been done towards improving foods or feeds with respect to Salmonella is in the use of the words, 'zero tolerance' or 'freedom from.' When I made suggestions on the condemnation of some manufacturers because of contaminated feed, I specifically said, 'Contamination at a given probability level'...Without a given target, or probability level to aim at, some manufacturers will say we can't achieve zero tolerance. They use the zero tolerance issue to evade their responsibilities.

"I think we should be a little stronger," he adds, "and we should say that because many manufacturers are able to produce competitively-priced feed concentrates free from Salmonella at a given level of probability, we should condemn those manufacturers of protein concentrates who aren't reducing Salmonella in feed to acceptable levels" (AAAP, 1983).

Similar arguments for timely control and acceptable levels hold true not only for Salmonella, but for other pathogens as well.

### - The Arguments for Change in the Inspection System

Several studies have examined the lax inspection procedures, the reduction in the number of inspectors in meat and poultry plants, and the changes in rules which have further weakened the protection afforded by the USDA. However, since the inspection system is not designed to detect human pathogens unless they produce an observable lesion, the value of the entire inspection system is questionable.

Pathogenic microorganisms often reside in the gastrointestinal tract and on external surfaces of animals. The bacteria causing food poisoning cannot be detected by usual organoleptic procedures (i.e., sight, smell, and touch) used during inspection. As a result, pathogens are not reasons for condemning meat and poultry.

A National Academy of Science report notes, "The methods used in inspection are primarily those developed in Europe during the last part of the nineteenth century. They are highly focused on observation of gross lesions or abnormalities that would be direct indicators or markers of disease...Salmonella and Campylobacter are major causative agents of diseases transmissible through the consumption of meat and poultry products, but the report concludes that it is virtually impossible to detect these organisms with current inspection methods" (NRC, 1985a).

A former Assistant Secretary of Agriculture believes, "If it has a horrible tumor on it, they will condemn it since they can see those things. But they are looking for the wrong things because virtually none of those diseases or tumors or lesions are transmittable to human beings. They make the chickens sick, but they won't make you sick. Salmonella will make you sick. The $350 million meat and poultry inspection program could be more useful if it looked for the bacteria retailers and consumers cannot see.

"They [the industry] could improve the way they take feathers off the bird," she continues. "They could have a system that does not beat feces into the bird. The way the Department runs the program right now favors the [processor] who does not spend money or effort to produce clean chickens...The law is dumb. The law was written for a time which has passed" (WABC, 1986).

### - Attempts to Make the Inspection Process More Cost-effective

In recent years increased consumer demand for poultry, coupled with a reduction in funding, has caused the Department of Agriculture to adopt procedures that include fewer inspectors. The most recent change regarding inspection procedures was implemented in January of 1986; it reduced the number of inspectors from three to two on poultry slaughter lines while requiring the same production and output level of chickens.

The very way chickens are inspected had already been changed for some plants in recent years from what was known as "Modified Traditional Inspection" (MTI) to "New Line Speed" (NELS). Plants with "good track records" are now inspected by NELS with the remainder still under the MTI system. Under the NELS procedure, the USDA hands over more responsibility to industry. Three federal inspectors see 91 birds a minute; the company is responsible for trimming off defects and fecal matter without federal line inspectors giving direct orders.

Plants not on NELS that had previously utilized MTI are now inspected under the Streamline Inspection Program (SIS). Just like the old MTI system, SIS stipulates a maximum linespeed of 70 birds a minute. Both NELS and SIS reduce from three to two the number of inspectors on each line. Under the old MTI system, two inspectors conducted internal, or viscera inspection and a third performed exterior carcass inspection. Under the new system, both inspectors on the line will conduct whole bird inspections at a rate of 70-91 birds a minute. Inspectors see every other bird. But even at 35 chickens per minute, they do not have time to properly inspect each one; in less than two seconds, inspectors are required to examine the organs, look for contamination, and give instructions to plant personnel to cut or throw away diseased chickens.

The USDA is testing the efficacy of even faster line speeds for poultry inspection. In 1985, a system that would make a single federal inspector responsible for the wholesomeness of 180 birds a minute with the assistance of a computer and industry personnel was tested. Under the plan, six plant employees on two eviscerating lines inspect or "sort" 30 birds per minute, entering condemnation and trim data into computer terminals. Birds from both lines, about 180 each minute, then pass a single USDA inspector who is responsible for monitoring the adequacy of inspection by watching the birds and monitoring data on a computer terminal (Food Chemical News, 1986). This tested procedure was approved by the USDA, and Perdue, one of the largest poultry producers in the country, will be instituting this computerized inspection system in the near future.

Unfortunately, budget cuts have resulted in fewer slaughter inspectors and are reducing the role of review and evaluation staff. The Director of the Food Safety Inspection Service (FSIS) said that each month the agency loses an average of 50 inspectional employees who are not being replaced (Food Chemical News, 1985).

The USDA's approval of faster line speeds coupled with its relative inattention to researching ways of improving the microbiological quality of raw meat and poultry products do not promise to reduce meat and poultry contamination, nor do they help to accomplish the agency's mandate. Only $2.4 million will be spent on pathogen control research by the USDA in 1986. Foodborne illness will not be reduced or prevented if one USDA inspector is responsible for the wholesomeness of 180 chickens a minute.

## - Current Efforts at the USDA to Control Foodborne Illness

The USDA's current approach to controlling meat and poultry contamination centers on removing the bacteria in the post-slaughtering stage, primarily by the use of chemical solutions, such as chlorine. In addition, the use of irradiation, which extends shelf life and reduces contamination, has been proposed for poultry and meat. A better approach would be to institute pathogen control programs (i.e., mandatory clean feed) during the pre-slaughter stage to prevent bacteria from infiltrating the cycle in the first place.

Further, the USDA believes processors should be able to market artificially treated meat and poultry at a higher price because the product is less contaminated. An Assistant Secretary of Agriculture stated that the USDA will propose an "incentive" program for poultry processors that institute new quality control programs. Specifically, plants that use chlorinated water or acetic acid in processing birds may be permitted to add some special notice on product labels. The proposed label would not warn of the possible negative public health effects of chlorination or irradiation. Instead, the label would have a sanguine tone, highlighting the cleanliness of the chicken, and justifying a higher price. "Obviously," said the Assistant Secretary, "the label wording would be negotiated with industry. Perhaps it would be something to the effect that (specifically treated) poultry has a longer shelf-life" (Ostroff, 1985).

But in an earlier statement, the Secretary acknowledges that while chlorination and irradiation may provide short-term solutions to the Salmonella problems, there are questions about both processes. "There are persistent questions about the safety and efficacy of these methods that must be answered," he said. In the case of chlorine added to processing water, "Studies are needed to determine the extent to which organochloride compounds or chlorinated hydrobcarbon residuals are a health hazard" (Food Chemical News, 1984).

Although many unanswered questions remain, the Food Safety Inspection Service, (FSIS) will continue permitting the use of chlorine to control Salmonella in poultry plants. "Despite these concerns, chlorination is the only show in town to effect reductions in Salmonella at slaughter," said the Secretary. The incidence of Salmonella on chickens can be reduced from 38% to 26% by adding chlorine to processing water (Food Chemical News, 1985).

While long-term public health questions remain unanswered, irradiation might prove effective in virtually sanitizing poultry and other meat at processing plants. The National Broiler Council's Director of Science and Technology notes, "Even if FDA should grant this approval it is likely to be five to ten years before irradiation is used in commercial poultry production...The use of irradiation certainly would increase chicken's cost to the consumer. Most plants would not have the necessary equipment, therefore necessitating the chicken to be transported to a central irradiation facility" (Ostroff, 1985).

Those who buy and eat chicken have assumed the product has been wholesome all along. Allowing a higher price for chickens sold with less contamination is an admission that the chickens they have been eating without any warning were unwholesome. While raising the price by a few cents per pound is worth the extra expense if consumers are guaranteed a cleaner chicken, the ideas currently advocated by industry and the USDA are practices which not only add costs but also have the potential to negatively affect public health.

The use of labels warning of possible hazards associated with meat and poultry has been raised by the American Public Health Association, which filed suit in a U.S. District Court in 1974. The Association charged that Department of Agriculture officials failed to require complete and accurate labels on meat and poultry products (APHA vs. Butz, 1974). The Association believed consumers should be informed of possible bacterial contamination and of necessary precautions that can be taken against the dangers of food poisoning infections from contamination (GAO, 1974).

### - Educational Efforts

The federal government stresses the merits of its educational efforts as a way of controlling foodborne illness from meat and poultry contamination. The USDA's education programs, however, appear to be ineffective. These programs have focused on pamphlets and a meat and poultry hotline which informs consumers how to handle raw products.

In order to find out how successful these educational efforts were in 1973, the General Accounting Office (GAO) contracted with the Gallup Organization to determine what the nation's 73 million women knew about Salmonella. A total of 816 women were interviewed nationwide. The poll indicated that:

(1) 74%, of the sample, which translates to approximately 54 million women, did not know that Salmonella is a bacteria which causes food poisoning.

(2) 66%, or approximately 48 million women, did not know how to minimize the spread of Salmonella within the home.

(3) 39%, or approximately 28 million, were certain that raw meat and poultry on the market were inspected for Salmonella.

## Retail Food Store Responsibility

Because meat is often contaminated when it arrives at a retail store or restaurant, managers must take steps to insure that further microbiological deterioration does not occur. Managers can minimize the multiplication of bacteria already present and the chances of additional bacteria being introduced by guarding against temperature abuse, unhygienic practices and unsanitary equipment.

Surveys have shown that retail store workers are often unaware of proper food safety procedures or the importance of temperature maintenance. One study completed in Oregon, a state where awareness is heightened because of controversial standards introduced several years earlier, found that service workers generally had a "sore lack of knowledge" of ways to prevent the spread of bacterial contamination.

The study found, "Only approximately one-third of the respondents knew or understood specific facts about bacteria, such as statements relating to the mode of transport of bacteria and basic principles of food contamination...A relatively high percentage (77%) recognized growth of bacteria can be controlled by keeping foods cold. There was not the same level of recognition or understanding of some of the more complex statements such as 'safe temperatures for potentially hazardous foods are 45 degrees Fahrenheit or below, and 140 degrees Fahrenheit or above.' Only 37% of the respondents agreed that this was a correct statement, which would basically indicate that respondents were unsure of specific temperatures necessary for adequate control of bacterial growth" (Wyatt, 1979).

A study on the temperature of retail cases found that retail case thermometers are indicative of the temperature of the blower air rather than the temperature of the meat. "Depending upon location within the display case, ground beef temperatures ranged from 38 to 74 degrees warmer than the blower air...These excessively high temperatures allow rapid bacterial proliferation and are thereby detrimental to the shelf life and safety of displayed meats" (Greer, 1981).

## Foodservice Responsibility

The potential for a large foodborne outbreak resulting from contaminated products in a foodservice establishment is great because of the large number of people served. According to the National Restaurant Association, in 1955 only 24% of the family food budget was spent on meals eaten away from home; that figure had grown to 40% by 1984.

The New York City Department of Health requires that at least one certified foodservice worker be on duty during each shift. Certificate holders must pass a 15-hour course on food safety and protection procedures, including instructions on basic microbiology and how pathogens can spread in a kitchen, rodent control, and the principles of time and temperature abuse.

## Consumer Responsibility

Because consumers purchase goods that may be contaminated, they must safeguard their health by handling meat and poultry properly. Unless extreme care is taken, many bacterial strains can spread on kitchens surfaces.

Although these bacteria are usually killed when cooked, bringing contaminated meat into a household kitchen creates a "risk environment." In order to prevent cross-contamination in the kitchen, raw and cooked food should be handled separately, using different cutting boards and utensils. A typical cross-contamination reaction is illustrated below:

A chicken has been sliced on a cutting board and the parts are placed into a frying pan. Without washing utensils and hands thoroughly, the same knife and cutting board are used on cooked potatoes for a salad. Then, raw tomatoes and lettuce are chopped, again, without washing either the board, the knife of hands. Since the potatoes, tomatoes, and lettuce will not be cooked, the pathogens will be eaten.

The USDA states in a consumer fact sheet, Food-borne Bacterial Poisoning, that as long as consumers cook meat above 140 degrees Fahrenheit, there is very little chance of food poisoning (USDA, 1985). C.perfringens, however, can survive at higher temperatures. While bacteria may die immediately when the cooking process begins, some can survive the cooking process. If bacteria survive, and the temperature of the meat or poultry is somewhere between 45 and 140 degrees, the organisms will have time and room to grow because the competition will be killed off.

The longer a meat or poultry dish remains at room temperature, the greater the possibility that bacteria will grow. Consumers should "keep hot things hot and cold things cold." After cooking, meat should be chilled as quickly as possible. The center of the roast can stay warm and give bacteria a place to grow, so the center should be given the opportunity to cool almost as quickly as the meat near the surface.

The industries which are responsible for producing raw and processed meats cannot hold consumers soley responsible for outbreaks that result from cross-contamination in the kitchen. Meat and poultry products become contaminated as a result of abuses during all stages of production. Consumers should be made aware of proper handling procedures in case the raw meat or poultry is contaminated when purchased, but many of these outbreaks would not occur if bacteria was not present at the time of purchase.

## Chapter Five

## THE VALUE OF STANDARDS AND A JUSTIFICATION FOR CHANGE

### Summary

One better way of fulfilling government and industry responsibility would be through the introduction of microbiological standards -- statutory limits on the amount of pathogenic bacteria allowable by law on meat and poultry.

In 1973, Oregon introduced microbiological standards for raw meat and poultry products. However, these legislatively imposed standards faced judicial challenge by the retail industry, and were thrown out by the court. Although the Oregon experiment did not succeed, it made clear that standards could be designed to successfully reduce the incidence of foodborne illness from meat and poultry contamination.

This chapter also examines the progress made in Scandinavian countries toward eliminating foodborne illness by using microbiological criteria. These programs significantly reduced levels of bacteria in meat and poultry products.

Finally, microbiological criteria for milk and whole eggs which the USDA has instituted with marked success, is reviewed. To date, however, the USDA remains steadfast against introducing microbiological standards for raw meat and poultry.

### Case History of Microbiological Standards for Meat and Poultry

Oregon was the first and remains the only state to have statutorily addressed the correlation between raw meat and poultry products and foodborne illness. In 1973, legislation that introduced microbiological criteria was passed. Standards limiting the total number of bacteria per gram and E.coli levels of meat and poultry were introduced. Retail stores were subject to fines if the levels were exceeded. Within the first year, the retail industry challenged the Oregon standards in court, arguing that the burden of an industrywide problem was unfairly placed on stores. The retail industry argued that raw meat and poultry may be contaminated at slaughter and processing levels, before temperature and handling abuses can occur at the retail stage.

The court repealed the legislation, and ruled that "bacterial standards on raw meats, as applied in Oregon were considered unjustifiable because they: a) could not accomplish what they purported to do, i.e, reduce public health hazards, b) were not technically feasible, i.e., were unattainable under the conditions of current good manufacturing practice in the industry, and c) were not administratively feasible" (Winslow, 1979).

Although the intentions were good, there were several problems with the Oregon law:

- In testing bacteria levels, the Aerobic Plate Count (APC) test was used. This test indicates total bacterial counts and does not distinguish between those which cause food poisoning, and those which do not, therefore limiting its effectiveness.

- The E.coli level test, also part of the program, indicates overall sanitation levels rather than whether food poisoning will occur.

- E.coli and other bacteria can be introduced to meat and poultry long before it reaches the retail stage.

- Laboratory tests for E.coli take approximately six days, by which time the food would likely be too old to sell.

In short, using microbiological criteria after the raw meat and poultry products have been shipped to a retail store may, in light of current technology, have limited value. For such testing to be useful, more expedient laboratory procedures which could determine the levels and toxicity of pathogens in a shorter period of time must be developed.

In determining the appropriateness of imposing microbial standards for pathogens on meat and poultry, an National Academy of Science (NAS) subcommittee developed a list of factors that should be considered. The factors include:

1. Evidence of a hazard to health based on epidemiologial data or hazard analysis.

2. The nature of the natural and commonly acquired microflora of the food and the ability of the food to support microbial growth.

3. The effect of processing on the microflora of the food.

4. The potential for microbial contamination and/or growth during processing, handling, storage, and distribution.

5. The category of consumers at risk.

6. The state in which food is distributed, e.g., frozen, refrigerated, heat processed, etc.

7. The potential for abuse at the consumer level.

8. The potential for spoilage.

9. The manner in which the food is prepared for ultimate consumption, i.e., heated or not.

10. The reliability of methods available to detect and/or quantify the microorganism and toxins of concern.

11. The costs/benefits associated with the application of criterion. (NRC, 1985b)

Raw meat and poultry fit all of these conditions. The major hindrance in the imposition of microbiological standards on meat and poultry is that expedient and inexpensive testing procedures have yet to be developed. Currently, microbiological testing can take up to a week before final results are available.

## USDA Pathogen Control Programs for Milk and Eggs

The USDA is responsible for the wholesomeness of fresh milk and eggs produced in the United States; two products which used to be important vehicles of foodborne pathogens. However, in the cases of milk and eggs, the USDA has successfully introduced programs incorporating microbiological standards in order to reduce the incidence of bacterial poisoning associated with these products.

"Around the turn of the century," notes a NAS Subcommittee report entitled An Evaluation of the Role of Microbiological Criteria for Foods and Food Ingredients, "The United States suffered devastating outbreaks of milkborne disease. Thousands of people contracted typhoid fever, brucellosis, tuberculosis, scarlet fever, diarrheal disease, and diptheria from commercial dairy products. Even as late as the mid-1920's, fifty to sixty people died every year in the United States from milkborne disease. Public health authorities and the dairy industry then imposed controls on milk production, developed safe and effective pasteurization procedure, and set sensible microbiological limits that ensured these measures. These policies changed milk from one of the most dangerous foods in the United States to one of the safest. How much of this can be attributed to microbiological criteria is not clear, but surely they helped."

The reports adds, "The consumption of eggs and egg products have been an important cause of human salmonellosis. The percentage of outbreaks caused by eggs decreased dramatically after 1966...Of great importance was enforcement of the Egg Products Inspection Act, as of July 1972, which eliminated human consumption of high-risk shell eggs...Furthermore, the Egg Products Inspection Act required that all egg products be pasteurized to render them free of Salmonella [emphasis added]" (NRC, 1985b).

In the mid-1920's, the annual death rate from milkborne illness totalled about sixty lives and the federal government saw fit to address the problem by introducing microbiological criteria. Today an estimated 4,500 people die each year from food poisoning by contaminated meat and poultry. The USDA, however, has consistently opposed the introduction of microbiological standards for raw meat and poultry.

## Pathogen Control Programs in Europe

Several European countries have set up successful pathogen control programs to address foodborne illness at its source. The programs are particularly notable, in that they focused on the wholesomeness of the animal feed, which, as has been noted, is a fundamental root of the problem.

In Sweden, pathogen control measures were taken that required all imported rendered feed ingredients and domestically rendered products to be free of Salmonella. All breeders, hatchery supply flocks, and broiler production operations were affected. Similar programs were set up in Denmark and Finland.

Unlike the Oregon initiative, "In none of these countries is laboratory control exercised at the process or retail level. Various surveys have indicated that the incidence of Samonella in poultry from these three countries is lower than in other parts of the world; less than 1% in Sweden, about 5% in Denmark and about 7% in Finland" (Siliker, 1982). As noted earlier, the USDA estimates that 37% of the chicken sold in the U.S. are contaminated with Salmonella.

Scandinavian countries also made efforts to control Salmonella in other livestock. In Denmark, the incidence of Salmonella in pigs became much lower than in the United States or Canada. Regulations required that garbage and swill be rendered before it is fed to hogs. On the occasions when Salmonella was detected on live cattle, the animals were quarantined and treated until Salmonella-free (Siliker, 1982).

## Economic Justification for Change

Increasingly, public funds are allocated on the basis of cost-benefit analyses. Because national surveillance regarding food poisoning is incomplete and the number of reported outbreaks are not accurate, an exact cost-benefit analysis is difficult to measure. However, based on available statistics, which are commonly acknowledged to be conservative, such analysis confirms that it would pay to take measures to prevent foodborne illness.

Each year, over six million Americans suffer from foodborne illness and it is estimated that 9,000 people die annually. Foodborne illness costs consumers between one and ten billion dollars a year in lost wages and medical expenses. At least half of these cases and expenses relate to meat and poultry contamination.

The millions of dollars spent on hospitalization, medicine, and lost productivity justify more than the $2.4 million the Department of Agriculture will spend on pathogen control research this year. Steps to reduce the extent of meat and poultry contamination are cost-effective in light of the expense of foodborne illness to consumers and the nation.

Moreover, the experience with successful European programs indicate that stringent control measures are not economically prohibitive. The Swedish control programs for Salmonella in poultry cost no more than fifty cents per person annually in the 1970's (Todd, 1980).

## Chapter Six

## RECOMMENDATIONS AND CONCLUSION

Although the contamination of meat and poultry is a complex problem, it can and should be addressed at every stage of the cycle -- from the feeding of livestock to the preparation of raw meat and poultry products. The United States Department of Agriculture, industry, state and local public health officials must work together toward eradicating the conditions that lead to foodborne illness from meat and poultry contamination.

The New York City Department of Consumer Affairs recommends the following:

### Federal Standards, National Microbiological Testing Facilities and Research Efforts

- Federal microbiological standards for raw meat and poultry should be introduced and legal limits on pathogens should be set. These limits must be realistic and reflect the best technological methods available. Currently, the USDA provides the meat and poultry industry with "guidance" on microbiological quality control; these recommendations serve only as advice. Until standards are statutorily mandated, processors will have little incentive to revise their current procedures.

- Federal funding is necessary for the development of more expedient diagnostic tests to examine the presence of pathogens. Currently, methods to detect, identify, and quantify the organisms are cumbersome and time consuming; microbiological testing may take up to seven days.

- More research on "emerging pathogens," such as Campylobacter and HEC (E.coli 0157:H7), is needed in order to fully understand their impact on human health. Methods which would reduce pathogenic bacteria during the production and processing of meat are also needed.

### Animal Feed

- The USDA should prohibit the use of contaminated products in rendered feed and impose stiff penalties for the use of contaminated feed. This measure would reduce the presence of bacteria, particularly Salmonella and Campylobacter, in animals. The General Accounting Office (GAO) recommended such action in its 1974 report. A prohibition of contaminated feed for animals is a critical step in the control of foodborne illness. This measure would have a significant impact on the levels of bacteria on meat and poultry; European countries which eliminated

Salmonella from animal feed found drastically reduced amounts of the pathogen in the end products.

## The Pre-slaughter Stage

- The USDA should establish national standards for the sanitation of the environment in which animals are raised. Animals should not be over-crowded in cages or pens; the sharing of food and water and the prevalence of excrement results in the spread of bacteria.

- The breeding environment should be made rodent-proof.

## The Processing Stage

- In order to remove internal organs, industry should utilize eviscerating equipment that minimizes the smearing of pathogen-laden feces on the carcasses.

- The "chill-water" used to lower the body temperature of slaughtered chickens should be changed frequently to prevent cross-contamination. Ideally, a continuous "shower" of water should be used during the chilling stage, despite the higher costs of using more water.

## Transportation

- The USDA should prohibit the use of vehicles contaminated from previous cargo or infested with rodents for the transport of live and slaughtered animals. It is counter productive to ship clean meat and poultry in filthy conditions.

- Greater resources should be provided to state and local agriculture and health agencies so that laws on temperature maintenance can be rigorously enforced. Temperature maintenance during transport is critical in order to discourage the growth of organisms that may be present at the time of shipment. The feasibility of requiring trucks to have built-in refrigeration should be explored.

## Tracking

- Certificates of origin should accompany all livestock and poultry through the retail stage. Currently, it is almost impossible to find the source of contamination once an animal has been slaughtered. A method which traces products from the point of retail sale back to the animal's original production unit would make possible the discovery of the point at which contamination occured and allow for a recall if necessary. The 1985 National Academy of Science (NAS) subcommittee studying the nation's meat and poultry inspection program came to the same conclusion. The USDA is currently researching the feasibility of such a tracking program.

### Retail Stage

- Retail stores must maintain the temperature of products in their freezers and display cases. Sanitation regulations regarding the cleanliness of cutting boards, blocks, grinders, saws, and counters must be monitored carefully at retail stores.

### Consumer Education

- Because meat and poultry contamination is so prevalent, signs should be required to be posted near retail meat cases explaining how to avoid foodborne illness.

- Warning labels should be required to be placed on individual packages to alert consumers of the hazards related to handling the products improperly.

- More educational programs which stress the potential for health problems -- particularly for highly susceptible groups -- resulting from contaminated meat and poultry are necessary. Currently, the USDA educational efforts are failing; the public remains inadequately informed of ways to avoid food poisoning.

### National Surveillance

- A more active surveillance system to discover the rate of foodborne illness should be adopted nationwide to provide more reliable statisitics. This would be useful in a cost-benefit justification of greater resources dedicated to research and the improvement of the national meat and poultry inspection program.

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As this report reveals, consumers eat contaminated meat and poultry everyday. Although certainly underestimated, at least 6.5 million Americans suffer from food poisoning annually; half of these cases are caused by unwholesome meat or poultry products. Having started this report as an attempt to integrate existing research on the problem, we soon discovered that those we rely upon to assure the wholesomeness of the meat and poultry we eat have abdicated their responsibilities.

Foodborne disease, as shown in this report, is not only a serious problem of great magnitude, but also an expensive one. Estimates of what it costs all of us, in terms of lost wages, medical expenses and personal health, range from one to ten billion dollars a year. While too little attention has been paid to the problem of contaminated meat and poultry, and too few resources have been devoted to its eradication, the situation is far from hopeless.

The recommendations contained herein show how we can be guaranteed that the chicken and beef we buy is not contaminated by harmful bacteria. The one point that stands clear is that foodborne disease can be dramatically reduced. To do so, however, requires the concerted action of government, industry and consumers and the dedication of necessary resources.

While a quarter of the annual reported incidences of food poisoning originate in New York City, it is clear that contaminated meat and poultry is a national problem which can best be solved by federal initiatives. State and local governments also have a role to play in helping to ameliorate the conditions which create and perpetuate this silent public health hazard.

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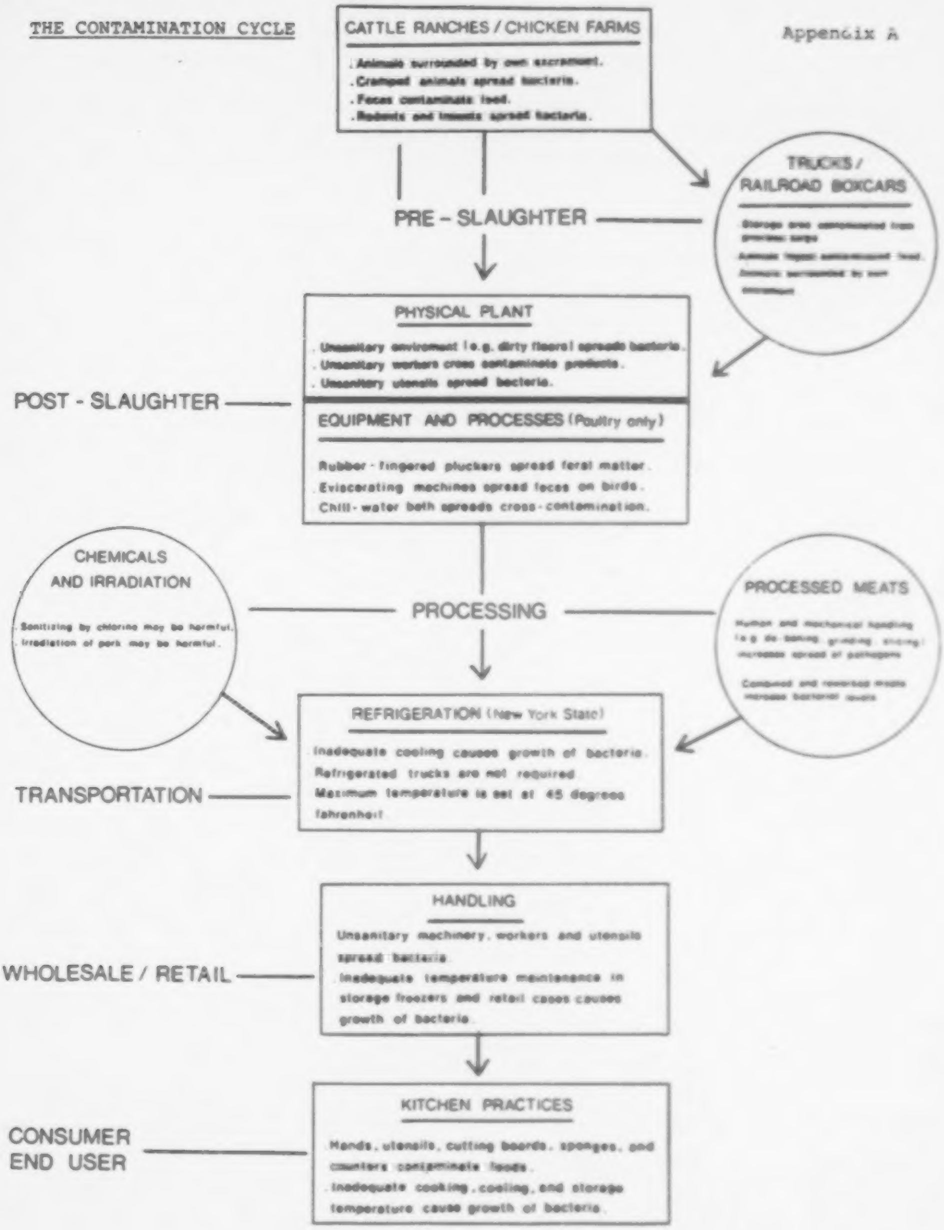
THE CONTAMINATION CYCLE

Appendix A



CATTLE RANCHES / CHICKEN FARMS

- Animals surrounded by own excrement.
- Cramped animals spread bacteria.
- Feces contaminate feed.
- Rodents and insects spread bacteria.

TRUCKS / RAILROAD BOXCARS

- Storage area contaminated from previous cargo.
- Animals ingest contaminated feed.
- Animals surrounded by own excrement.

PHYSICAL PLANT

- Unsanitary enviroment (e.g. dirty floors) spreads bacteria.
- Unsanitary workers cross contaminate products.
- Unsanitary utensils spread bacteria.

EQUIPMENT AND PROCESSES (Poultry only)

- Rubber-fingered pluckers spread fecal matter.
- Eviscerating machines spread feces on birds.
- Chill-water bath spreads cross-contamination.

CHEMICALS AND IRRADIATION

- Sanitizing by chlorine may be harmful.
- Irradiation of pork may be harmful.

PROCESSED MEATS

- Human and mechanical handling (e.g. de-boning, grinding, slicing) increases spread of pathogens.
- Combined and reworked meats increase bacterial levels.

REFRIGERATION (New York State)

- Inadequate cooling causes growth of bacteria.
- Refrigerated trucks are not required.
- Maximum temperature is set at 45 degrees fahrenheit.

HANDLING

- Unsanitary machinery, workers and utensils spread bacteria.
- Inadequate temperature maintenance in storage freezers and retail cases causes growth of bacteria.

KITCHEN PRACTICES

- Hands, utensils, cutting boards, sponges, and counters contaminate foods.
- Inadequate cooking, cooling, and storage temperature cause growth of bacteria.

Appendix B

## CONSUMER TIPS

Given the scope of contamination, the following precautions should be taken by consumers and foodservice workers in order to prevent the spread of contamination:

- Never thaw frozen food uncovered on a kitchen counter at room temperature. Room temperature will promote the growth of bacteria on many surfaces. Plan ahead and thaw frozen foods in the refrigerator.

- Wash hands after handling raw meat and poultry.

- Follow simple hygienic practices whenever possible. Use rubber gloves when sores or cuts appear on hands.

- Do not taste any meat or poultry that has a suspect appearance.

- Avoid cross-contamination from raw meat and poultry via hands, utensils, equipment, table tops, sponges, and cleaning cloths.

- Do not use old porous cutting boards to cut meat and poultry. Porous surfaces are perfect breeding grounds for bacteria and cross-contamination if used in the preparation of other foods. Use one cutting board for meat and poultry products, and another for all other foods.

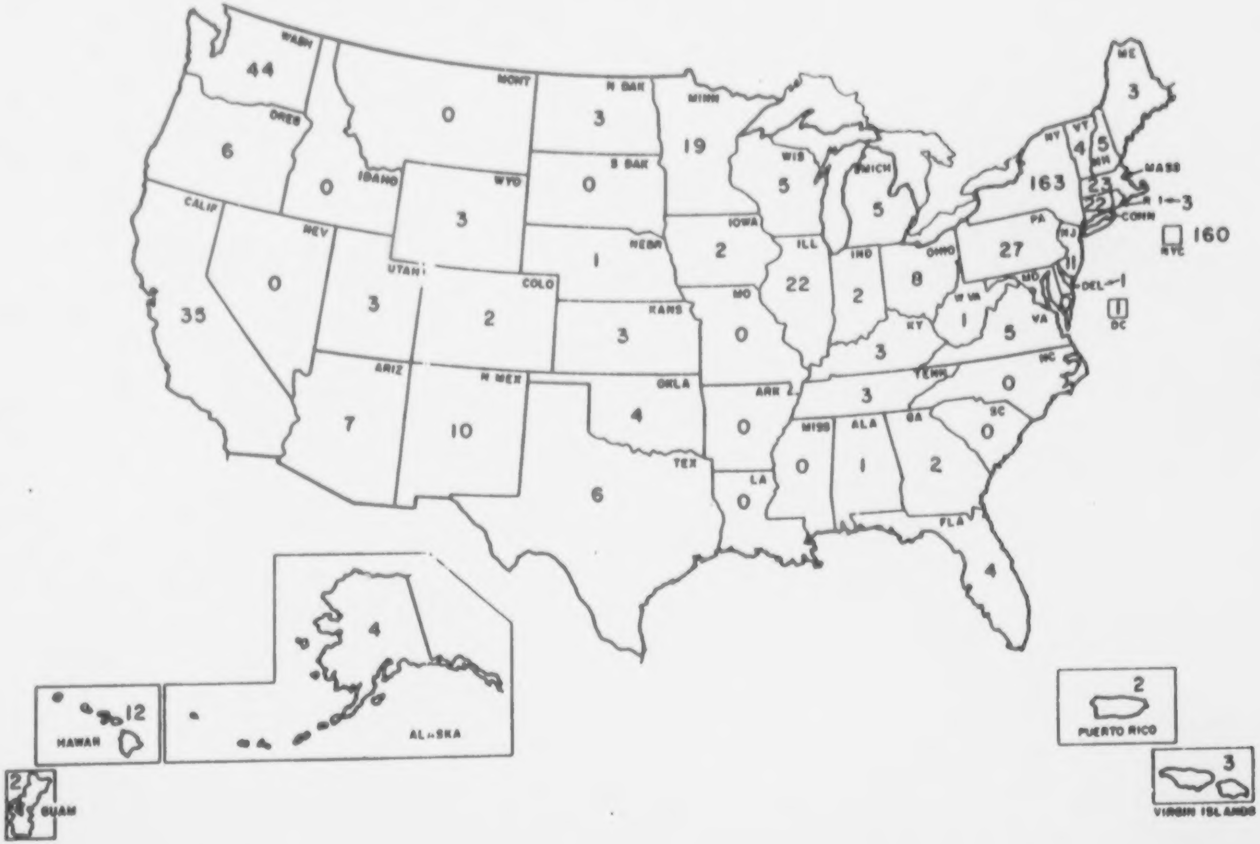
- Do not use dirty rags or any cloth to wipe juice from meat and poultry.

- Always cook meat and poultry thoroughly and do not keep cooked products at room temperatures for long periods.

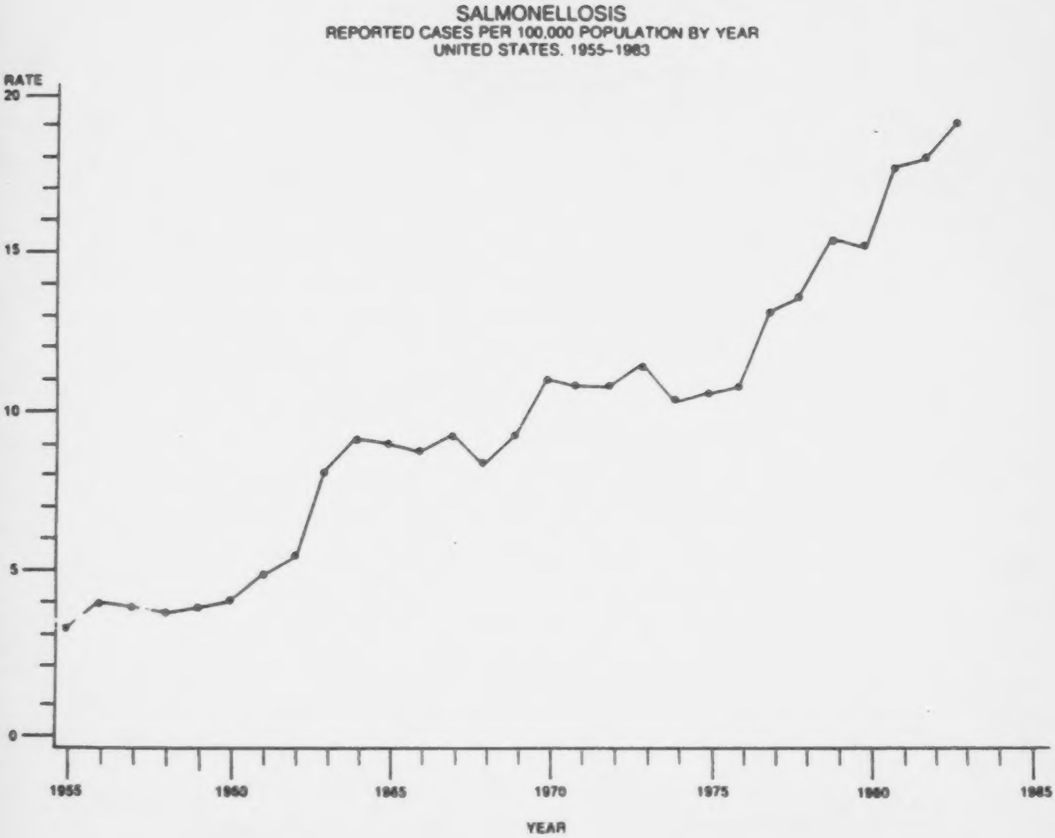
- Put leftovers in the refrigerator as soon as the meal is over. Reheat leftovers thoroughly.

Appendix C
DHHS, 1985

OUTBREAKS OF FOODBORNE DISEASE REPORTED TO THE CENTERS FOR DISEASE CONTROL, BY STATE, 1982


WASH 44
OREG 6
CALIF 35
IDAHO 0
NEV 0
MONT 0
WYO 3
UTAH 3
ARIZ 7
COLO 2
N MEX 10
N DAK 3
S DAK 0
NEBR 1
KANS 3
OKLA 4
TEX 6
MINN 19
IOWA 2
MO 0
ARK 0
LA 0
WIS 5
ILL 22
MICH 5
IND 2
OHIO 8
KY 3
TENN 3
MISS 0
ALA 1
GA 2
FLA 4
SC 0
NC 0
VA 5
W VA 1
MD
DEL—1
DC 1
PA 27
NJ 11
NY 163
NYC 160
VT 4
NH 5
ME 3
MASS 23
R I—3
CONN 22
ALASKA 4
HAWAII 12
GUAM 2
PUERTO RICO 2
VIRGIN ISLANDS 3

Appendix D
(NRC, 1985a)



Salmonellosis (excluding typhoid fever)--reported cases per 100,000 population, by year, United States, 1955-1983. From CDC, 1984.

## Sworn Statements of U.S. Department of Agriculture Inspectors Detailing Irregularities in Departmental Management Practices With Regard to the Operation of the F.S.I.S. Review and Evaluation Staff Reports, as Submitted by the Government Accountability Project

### MEMORANDUM

To: Donald Dijulio, Office of Special Counsel

From: Michelle Sullivan, Government Accountability Project

Re: Draft statement based on interview with Dr. Ruth Blackburn, D.V.M., concerning the July 16, 1985 report on Dr. Carl Telleen's charges.

Date: August 27, 1985

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On August 24, 1985, I interviewed Ruth Blackburn, D.V.M., and prepared the draft statement below, whose accuracy she has confirmed verbatim.

I received my B.S. degree from the University of Minnesota in 1954. I also attended the University of Minnesota ~~for graduate school~~ RB and received my Doctorate of Veterinary Medicine in 1956. I was in private practice until 1969. I had a mixed practice. My employment with the government began in August of 1969. I began working for the United States Department of Agriculture in 1969. I worked in slaughter and processing plants until 1979. In 1979 I received a promotion as a Review and Evaluation staff member. I resigned ~~this position~~ from USDA/RB in February of 1985.

After reading the United States Department of Agriculture report dated July 26, 1985 on Dr. Carl Telleen's charges, I believe that it is a coverup. I believe that Dr. Telleen was a very good member of the Review and Evaluation staff. I personally worked with him as a fellow Review and Evaluation

Ruth Blackburn DVM

officer in Lawrence, Kansas. I witnessed first-hand his professionalism and his integrity. I was very impressed with his honesty.

When Dr. Bartlett took over in 1980 as Acting Head of the Review Team, we started having problems reporting contamination. Specifically, I personally endured harassment beyond the necessity to assure credibility for my findings. I tried to do my job. The USDA management harassed and intimidated Review Team members into re-writing our reports to downplay the defects and violations that we saw in the plants that we were inspecting. Management insinuated that if we did not re-write the "negative" reports or if we did not go along with this, we could find jobs elsewhere. It was said at a meeting by Dr. Bartlett that refusal to sign would be grounds for insubordination. The individuals who did not re-write the reports were also belittled and ridiculed. I felt frequent moral conflicts over my job. This experience was very disruptive to my life.

Concerning the issues raised by Dr. Telleen, I believe that he is correct. I personally experienced the USDA censoring my reports. I also witnessed first-hand other Review Team member's reports being censored. A specific instance that I recall happened in ~~the fall~~ October of ~~1980~~ 1980 and spring of 1981 ~~at~~ in a plant that I ~~had to~~ inspected in Pennsylvania. RB When I saw the gross violations at this particular processing plant, I immediately called in my report to Lawrence, Kansas. I informed the person taking the reports, ~~James Crawford~~ RB, of the visible contamination. There was a lot of hair and fecal material floating on the brine of ~~roast~~ beef cuts RB in the processing vats; there were flies all over the processing area.

Ruth Blackburn DVM

Six months later, April 1981 when I was in a plant in Colorado, Mr. Crawford called me at a very inopportune time and RB ~~when I was on the phone giving the information to Mr. Crawford,~~ ~~he~~ started to interrogate me. He asked me if I was sure what I ~~was seeing~~ saw. RB He responded to my description with a very negative attitude. This was an insult to my intelligence and professional judgment. He spoke to me in a condescending, non-constructive manner. The next day ~~after I called in the report,~~ ~~Dr.~~ Mr. Crawford called me ~~to~~ at another plant that I was inspecting and continued his interrogation of the day before. I had given that plant in Pennsylvania several significance #1 ratings, because of the gross hair and fecal contamination. I also had noticed flies on the meat processing tables. He insisted that I reconfirm my findings. He told me himself they were getting heat from industry and U.S.D.A. on my finding

I replied, "Yes, or I would not have written it that way." Based on my previous experience, his behavior was very unprofessional. Later, I came back to the office and saw that report. It had been changed by someone there. It had been bastardized. It did not sound like my writing. The style was changed. I realized then that it wasn't just Carl Telleen that they were trying to change. I was afraid not to sign the report. I had to sign the changed report, due to management's previous statements that failure to sign reports would constitute insubordination. Dr. Bartlett had a consultation with me. He gave me examples of other individuals who would not conform to his way of doing things. He stated that early retirement or a medical discharge would be in order if they did not comply with what he wanted them to write on their reports. It was also stated at the office many times that you could not go on another trip until the paper work from the last trip was complete. This

Ruth Blackburn DVM

meant that all the reports had to be signed before we were allowed to work again, to "go out in the field."

The USDA was attempting to convince us to change our approach and give great deference and latitude to the industry. Those who refused to go along faced management ridicule and isolation. A specific example was illustrated by a private conversation with Dr. Bartlett that took place in my office in Lawrence, Kansas, one day after work. Dr. Bartlett came into my office, sat on my desk, and began discussing Dr. Telleen. He asked, "Don't you agree that Dr. Telleen is senile and old and that he should retire? He is ~~going to be~~ RB an embarrassment." He commented on the poor quality of Dr. Telleen's handwriting and he incorrectly asserted reports were not up to standard.

At this point I realized that I was going to have to take sides. I had a choice to make: stay and try to do my job, despite the harassment and management censoring of my reports, or get out. I knew that if I stayed at this job, I could not be my own person. Inevitably I would face the same treatment as Dr. Telleen. I chose to leave the ~~government~~ Review Branch RB rather than fight the USDA management. I left in April of 1982. and returned To The Field. RB.

Another example of harassment involved Dr. William Theis, who was a well-respected reviewer. Management started working on Dr. Theis, trying to force him to change his reporting and writing style to conform to the new policies. When they started working on him, I thought it would kill him. Dr. Bill Theis is a very professional man. He ~~would~~ wrote well. RB The USDA started to change his reports. I know this first-hand because I shared a working cubicle with him in Lawrence, Kansas. Many times Dr.

Ruth Blackburn DVM

Theis was ordered to change his reports. He may be too intimidated to talk, because he is still employed by the USDA. I often saw him come in red-faced, jaw clenched, and slam down his papers on the desk. He would get very upset and react like this when the USDA changed the signficiance #1 findings on his reports. Dr. Theis is very professional and honest. He is intensely aware of professional ethics. He was an excellent, precise writer. When his reports were changed, this created a moral conflict within him.

Dr. Telleen was a good reviewer, but he did lack some writing skills. This deficiency could have been easily corrected. The USDA was missing the whole point of what a Review member should be by harassing the Review Team members, specifically Dr. Telleen. I also think that harassing Dr. Telleen made his writing problems worse.

Another Review Team member, Bill Sloane, was ordered to changed his reports. I know this first-hand , because at one time in Lawrence I also shared an office cubicle with him. Mr. Sloane was very upset at these report changes also. I read his reports before he handed them in and then I read the "censored" version written by the USDA management. I was shocked at the amount of "liberty" that they took on the re-writes. The revised reports were uniform, but they had lost their credibility. The substance of the reports was gone. They became "glossy reprints of other government reports."

I accompanied Bill Sloane on a review in New Jersey. I know first-hand that he is an excellent reviewer. He is very

Ruth Blackburn DVM

professional. He would get upset at the tactics used by the USDA management. It was at times difficult for him to maintain his demeanor and put up with the harassment at work. At all times he conducted himself like a gentleman. Mr. Sloane and I discussed Dr. Telleen. I recall a particular conversation in which Dr. Sloane stated that he felt that the USDA was picking on Dr. Telleen and himself because of their age. He stated that he and Dr. Telleen had reviewed together and felt Dr. Telleen was basically a good reviewer.

Bill is a very good man. Everything about this man -- his demeanor, his attitude and his enthusiasm -- were all evidence to me of his integrity. He liked to work for someone he believed in. He was very conscious of decorum. It was strange for the USDA to browbeat these good employees. Mr. Sloane had been in the government service before and had witnessed the changes of several administrations. He said to me once, "In all of my years, I have never seen anything like this." He was referring to the USDA corruption and also the cruelty against its own employees.

Whatever the excuse, the USDA mandate that allowed up to 28,000 pounds of contaminated product per week, from each plant inspected, before meriting a significance #1 finding, and the restriction of the number of plants to be inspected, was ludicrous. The ~~inspectors~~ reviewers had to mathematically figure out how much contaminated product was being sent out of questionable plants.

It used to be a challenge to inspect the plants as a reviewer. The enthusiasm was lost when the Reviewers saw that

Ruth Blackburn DVM

their findings were being changed and were not welcomed. It became better all-around for the Reviewers to find fewer and fewer violations. It became more advantageous to be political and to analyze every move. The new political regime that took over in 1980 was not productive and did not encourage productivity.

Our management also tried to create a feeling of insecurity among the Review Team members. I was sent to Washington on a pretextural basis ~~around~~ in November ~~or December~~ RB of 1981. Ms. Carol Seymour had requested that I give a presentation on a Training Program for the Review Staff. But I believe that the real reason she asked me to come was to feel me out about my position and attitude then concerning the politics of the USDA. She picked me up from my hotel and we talked a bit. She said something that I could not get out of my mind. She said, "You know, you have a good many friends in Washington; they can help you a lot." This remark was odd, because I did not have any friends in Washington, professionally. She said, "You have the skills. You could get along with this." It took me several months after that to leave the service. I realized that if I stayed, I would have to continually justify my presence on the Review Team.

The USDA violated the law by allowing plants to wash adulterated meat instead of trimming off and condemning portions of contaminated products. Salmonella is getting out-of-hand. The USDA should be forced to stop this practice. The broken skin is not a barrier to contamination. Washing will drive it further into the muscle and edible tissue. When the USDA started

Ruth Blackburn, DVM

allowing this, the salmonella outbreaks started getting worse.

The Office of Inspector General (O.I.G.) report dated July 25, 1985, is a whitewash. The O.I.G. did try to contact me for an interview, but they seemed bent on not making connections. I originally gave them my itinerary, told them where they could contact me, and gave them the numbers of places where I could be reached. The O.I.G. called me at the very times I had warned them I would not be available. I am not surprised, because the agent did not seem interested in talking with me.

State of Texas
County of Dallam

Ruth Blackburn DVM

Subscribed and sworn to before me this 4th day of September 1985

Please note correct street address and Box number
Ruth Blackburn DVM
2001 E. 5th ←
→ Box 4111
Dalhart, Tx. 79022

## MEMORANDUM

To: Donald Dijulio, Office of Special Counsel

From: Michelle Sullivan, Government Accountability Project

Re: Draft statement based on interview with Norman Lawrence, concerning the July 16, 1985 report on Dr. Carl Telleen's charges.

Date: August 28, 1985

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On August 27, 1985, I interviewed Mr. Norman Lawrence and prepared the draft statement below, whose accuracy he has confirmed verbatim.

After high school, I began working for Home Packing Company in Terre Haute, Indiana. I worked there one year before I went to the Navy. I entered the U.S. Navy in June of 1944 and got out on June 5, of 1946. I entered as an enlisted man and reached the rank of 3rd Class Petty Officer with a gunners mate rank. I received an honorable discharge on June 5, 1946.

I returned to Home Packing Company after service duty and did a variety of jobs there. I worked the kill floor and worked in rendering and packaging lard. I also worked in the processing department. I worked here from June of 1946 until February of 1951.

I was raised on a 380-acre farm. We had milk and beef cattle, it was a full farm. I had taken the Civil Service Test and received a score of 93%. I applied to the USDA in 1946. I was too young at 18 years of age to join in 1946. I was accepted on February 15, 1951.

The Bureau of Animal Industry, the forerunner of the USDA,

Norman O Lawrence

sent me to Indianapolis, Indiana, for training. I was trained in all aspects of red meat slaughter. From February 2, 1951 through 1954, I was working as a Federal Meat Inspector assigned to various plants. I also did relief work all throughout the state in Indiana. In November 1960, I was sent to the Meat Hygiene Training Center in Chicago, Illinois, for general training in the meat industry.

In February of 1961, I was sent to the Civil Defense Radiological Instrument Operation Training in Indianapolis, Indiana. I was trained in monitoring radioactivity levels. In November of 1961 I attended Military Sampling Inspection Training in Chicago, Illinois, which trained me for sampling inspection for the military service. In December of 1961 I studied Basic Statistics and Probability in Indianapolis, Indiana. In June of 1962 I was trained in Statistical Sampling, Army Inspection, Chicago, Illinois. This taught me what to look for in meat that we purchased for the military. In February of 1963 I took a USDA graduate course in Meat Inspection and Animal Quarintine Laws. This was a correspondence course offered from Washington, D.C. In February 1965 I took a Report Writing course given by the G.S.A. in Washington, D.C. which lasted one week.

In 1952, I was promoted from a GS-3 to a GS-5. In 1957 I received a GS-7, in 1962 I got a GS-8.

I was promoted to a Meat Inspector Specialist and transferred to Washington, D.C. in 1961. In 1963 I was promoted to a GS-9, Specialist Inspection Program Appraisal. In 1964 I was advanced to a GS-11 while keeping the former job title. In 1970 I was advanced to a GS-13, at this point I was working in

Norman V [illegible]

Washington, D.C. I worked from October of 1961 until November of 1973.

In 1965 I studied the Philosophy and Use of Work Management in Washington, D.C.. This was offered by the USDA. In 1965 I took a plain letter writing course, held in Washington, D.C. In 1966 I was sent to Instructors Training classes that lasted two weeks. In 1967 I attended a Quality Control Conference in Washington, D.C. In 1968 I enrolled in a USDA Graduate School, English graduate course. In 1969 I was sent to Ohio State University Meat Processing School for a four-to-five week course. In 1971 I attended a Labor Management Relations course that lasted two weeks, and was held in Rosslyn, Virginia.

From 1974 through 1976 I was given Executive Development training on the job. I also attended a Politics and Management Training Session in Washington, D.C. in June of 1977. This lasted one week and was given by Tip O'Neill.

I worked with Dr. Telleen from March of 1974 until February of 1982, approximately eight years. I know first-hand that Dr. Telleen was diplomatic, competent, mild-mannered and sincere about his job. In 1973 I was transferred to Lawrence, Kansas as a Review Officer. This was a lateral transfer. It was here that I met Dr. Telleen. I was one of the original Reviewers. When we first started there was only myself, I was the Processing Reviewer, and I also did slaughter and poultry.

The USDA needed more Review Officers, they increased the group to 14. Dr. Telleen was one of those hired around March of 1974. I was responsible for a portion of his training. He

Holman V [illegible]

accompanied me on one two-week training trip. I was to do an evaluation of Dr. Tolleen's ability after that trip. I evaluated him as being a better than average Review Officer; this was when he first started with the program. During this time, Dr. Tolleen started working and he contributed to all of the discussions and training sessions that we had. I do not recall ever seeing him having any problems up until mid-1981, around the time Dr. T. went on a Review trip with Dr. Doudna or perhaps around a month before.

Dr. Tolleen's reports up to this time were acceptable and done in a professional manner. I have first-hand knowledge that his reports were well done because I personally saw them. There were times that I was asked to be the acting supervisor. Dr. Tolleen and others would call in to me and ask concurrence on what my thoughts were regarding their evaluation of a plant. In no instance did I ever disagree with Dr. Tolleen or his findings. His reports were well worded and he gave an accurate description of his findings.

When John Links of the Office of Inspector General came out to take my statement, he told me that he knew what the situation was in Lawrence, Kansas. He said that "there was a directive or a policy that came out of Washington. There were some older people that the (USDA) wanted to get rid of."

I remember now that the secretaries started keeping statistics on the numbers of mistakes Reviewers would make in their reports. For example, spelling, punctuation, grammar and sentence structure mistakes were counted and logged in a report. This had not been done before 1981.

When John Links interviewed me, he said he knew all he needed to know about Meat Inspection. He came across to me as, "don't confuse me with the facts, my mind is already ~~make~~ made up." I figured if that's the way it was, that there was nothing I could do about it.

I know that when I was in ~~the~~ USDA, I did a good job. I left sometime during ~~1981~~ Feb. 10, 1982. There was a two-month lag time when we weren't doing anything. The program was being restructured. I decided to do a report on my own initiative, giving some ideas and suggestions on how to improve the program. No one ~~has~~ had asked me to do this, I just wanted to help the program. When I gave Dr. Bartlett the report, his response was, "This is very good, but who wrote the report for you." I was upset. This is just one example of how Dr. Bartlett would belittle his employees.

I personally had several reports changed. I tried to tell the investigator, Mr. Linko, about my reports being changed. He said he wasn't interested in hearing about it. John Linko was only trying to get from me what he wanted. He would not listen to the other relevant information that addresses Dr. Telleen's allegations. There were reports that were significantly changed. The reports were changed to such a degree that they lost their credibility. My reports were changed by the USDA management in Lawrence, Kansas. James Blank and Robert Bartlett were the management officials responsible for making the most significant changes.

In the conversation with Linko, I told him about a plant in Southern Indiana, the plant was diluting off-condition product. The product was rancid and off condition it should have been de-

Norman J

natured or destroyed for food purposes. The plant was mixing this in choppers for franks and bolognas. This was a food processing plant. The Circuit Supervisor stopped the operation on this particular item at the plant, during the Review of the plant. The meat that was remaining was destroyed. The part that was used, was passed into the food chain. I gave this plant on my report a significant #1 rating ~~finding~~. There were other violations in that plant so bad that I felt substantiated a significant #1 rating of this plant. A state inspector and a state supervisor, a federal supervisor and myself, who were reviewing the plant all agreed it should be a significant #1 plant. I called my finding into the office. I believe I spoke to James Blank. It was discussed between Harmon, Bartlett and Blank. They decided it only rated a #3 finding. They procrastinated on the decision about this plant. At first they agreed that this was a significant #1 plant. Then I was called twice after that concerning the rating of that plant. Finally, I got a call that the plant was a #3. The federal supervisor and ~~for~~ the state inspector was very disappointed, they ~~he~~ could not believe it. We ~~He was~~ were appalled. When I returned to Lawrence, I do not recall signing that report.

When I made a review, I prided myself with my diplomacy with the plant management, especially when I gave a plant a #1 rating. I would explain nicely that we were doing this to help them improve their product. I impressed upon the management that helping them to produce a good wholesome product was part of our job. I always tried to establish a good rapport with the plant management.

Norman D Lawrence

Specifically, I also remember the Bluebird Plant, establishment #1186. It was a notorious violator. This was a food processing plant. I recall that one time I went there they had lab analysis from a certified lab that showed that the plant was producing hams in violation of the prohibition against added water. The allowable USDA limit was 10%. This plant produce 5 million pounds of hams a week. I looked through the lab analysis and the written procedures. That product called for a 30% pump, the product was coming back in violation. The plant reduced the pump to 26%, it was still in violation. The plant then reduced it to 21% and it was still in violation. The plant then re-wrote the procedures and requested approval for a 40% pump. The plant was given approval for this by the USDA Regional office. I was disgusted.

When I returned to Lawrence, Kansas with this report, the report was "massaged" and changed. It was changed enough that when it was in final draft form, I told James Blank, "It's your report now, it's written the way you want it. You sign it, I will not." I remember talking ot Mr. Bari about this plant. We discussed how difficult it was to get proper action taken on this particular plant, due to USDA management's intervention.

The harassment of Dr. Telleen became obvious to me, in the office. USDA management, specifically Bartlett and Blank would call Dr. Telleen into their office and question him about his performance. This was a two-against-one situation. It made Dr. Telleen defensive.

I was so concerned about the tactics being used by the USDA

Norman D Lawrence

management that I made a note of this in my letter announcing my retirement to Dr. Houston on February 8, 1982. (Exhibit) I tried to diplomatically let him know that he had problems in Lawrence, Kansas, that needed some attention. I also sent a copy to the President of the Federal Veterainarians' Association.

I am 59 years old. I retired at age 56. I retired early because I figured that it was hopeless to try to do a good job at the USDA in Lawrence, Kansas, due to questionable management practices.

Excerpts from that letter to Dr. Houston follow:

> . . . as the leadership consists of people who know very little about the program, and as such are causing considerable unrest and disgust. The group here in Lawrence, Kansas, has grown to a size that far exceeds anything I had imagined it would. There are twenty-two GS-13s who have had their hands bound to the point when returning from a trip each report is re-written to the extent that it is not recognizable by the original author.
>
> The people analyzing and re-writing these reports are really the ones reponsible for the salmonella outbreak in the Northeast -- primarily because of the lack of importance that should have been placed on the deficiencies reported on the ready-to-eat program. Reports in other areas such as curing and smoking, canning and some in sausage have also been watered down by leaders who give the impression that their main goal is to better their position for a higher paying job rather than meeting the goals of FSIS.
>
> * * * *
>
> My point in this matter can be summarized as follows:
>
> (1) The leadership in R&E Program is low in quality, knowledge, background. Here in Lawrence, Kansas we have a leader with 5 years total program experience. In Washington, D.C., the leaders in the analysis group have very little if any knowledge of the FSIS program in the field.
>
> (2) The position available in the analysis

Norman D Faulkner

groups are being offered at the GS-13 level and as a result the individuals with proper knowledge or background have not applied. The thought that comes to my mind is a simple one. If I were sick I wouldn't go to a computer programmer for a cure. If I had a sick animal I wouldn't take him to a metalsmith for a cure. I would go to the person having adequate knowledge and training to prescribe a cure.

Don, I know you feel as I do about the review function, therefore, I suggest you look into the workings and make-up of the functions and then by improving the information you receive for adequately assessing the FSIS program. Truthful reporting is the meat of this program, and what you need to guide FSIS properly.

Signed, Norman V. Lawrence.

Concerning the remaining issues raised by Dr. Telleen:

2) I do not recall restricting the number of plants inspected. The 28,000 lb. figure was spelled out in a written directive that we received, I believe.

3) Yes, see previous content of this interview.

4) I do not know where to draw the line. I know that salmonella is a serious matter.

The investigator, John Linko, did not show me copies of Dr. Telleen's allegations. He read them to me. He read the four allegations to me.

John Linko "absolutely misquoted me." I think that they came out here to sack Dr. Carl Telleen. He has raised some real good issues.

STATE OF KANSAS
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on this 5th day of September, 1985.

M. MAYE GULLEY
NOTARY PUBLIC
STATE OF KANSAS
MY APPT. EXP. 11-7-85

M. Maye Gulley
M. Maye Gulley

1515 W. 26TH st
Lawrence, KS, 66044

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND QUALITY SERVICE

February 8, 1982

Dr. D. L. Houston, Administrator
USDA FSIS
Room 332 E
Washington, DC 20205

Dear Don,

Just a line to let you know I've enjoyed the strong leadership you have given FSIS (and other titles given the Program in past years). Through your leadership it seems that the meat and poultry industry has settled down and become much more stable and easier to work with than in past years.

As you know, I am retiring as of February 19 and sincerely feel that I have left many good marks on the Program. The only area I felt unsuccessful in making adequate change was in cured and smoked pork products. Most of this was caused by the fact that the people in charge of review and analysis for the past 9 years have been good people, but were out of their field.

This problem currently exists in Review and Evaluation as the leadership consists of people who know very little about the program, and as such, are causing considerable unrest and disgust. The group here in Lawrence, KS, has grown to a size that far exceeds anything I had imagined it would. Nearly all are grade GS-13 and above. Twenty-two GS-13's have had their hands bound and to the point when returning from a trip each report is rewritten to the extent that it is not recognizable by the original author. The people analyzing and rewriting these reports are really the ones responsible for the salmonella outbreak in the Northeast--primarily because of the lack of importance that should have been placed on deficiencies reported on the ready-to-eat program. Reports in other areas such as curing and smoking, canning and some in sausage operations have also been watered down by leaders who give the impression that their main goal is to better their position for a higher paying job rather than meeting the goals of FSIS.

My point in this matter can be summarized as follows:

1) The leadership in the Review and Evaluation Program is low in quality, knowledge, and background. Here in Lawrence, KS, we have a leader with 5 years total program experience. In Washington, DC, the leaders in the analysis group have very little if any knowledge of the FSIS Program in the field.

2) The positions available in the analysis groups are being offered at the GS-13 level and as a result individuals with proper knowledge or gackground have not applied.

The thought that comes to mind is a simple one--If I were sick I wouldn't go to a computer programmer for a cure; If I had a sick animal I wouldn't take him to a metal smith for a cure--I would go to the person having adequate knowledge and training to prescribe a cure.

Don, I know you feel as I do about this review function. Therefore, I suggest you look into the workings and makeup of the functions and thereby improve the information you receive for adequately assessing the FSIS Program. Truthful reporting is the meat of this program and what you need to guide FSIS properly.

Sincerely,

Norman V. Lawrence
Program Review and Analysis
Lawrence, KS

## MORANDUM

To: Donald Dijulio, Office of Special Counsel

From: Michelle Sullivan, Government Accountability Project

Re: Draft statement based on interview with Dr. Manfred Parker, D.V.M., concerning the July 16, 1985 report on Dr. Carl Telleen's charges.

Date: August 28, 1985

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On August 27, 1985, I interviewed Dr. Manfred Parker, D.V.M., and prepared the draft statement below, whose accuracy he has confirmed verbatim.

I graduated from Middlesex University College of Veterinary Medicine in Waltham, Massachusets in 1944 with a D.V.M. I worked as a veterinarian's assistant for one year. I was in private practice for two years in King Fisher, Oklahoma. I moved, and then established a private practice in Fayetteville, Arkansas, from 1947 through 1955.

In 1955 I joined the USDA as an Inspector-in-Charge in poultry inspection. In 1962 I did the training ~~for the~~ For MP USDA ~~Training Station~~ MP for poultry inspection for the Western Region. I did the poultry training for the Western Region for ~~five~~ Four MP years.

From 1967 through 1970, I was a Circuit Supervisor for the states of Washington and Oregon for poultry inspection, this was a GS-12 position. In 1970, approximately, there was a merger with poultry and meat in the Inspection Service. I did not want to leave the area I was working, so I stayed as a Sub-Circuit Supervisor, this was still at the GS-12 level.

In 1972 my position was abolished. There was a major

Manfred Parker

Manford Parker 2

reorganization in the USDA. I was given a promotion to a GS-13, Circuit Supervisor, and was transferred to Buffalo, New York. I worked in Buffalo from 1972 to 1981. I opted to take early retirement. The reason I took early retirement was because I was disgusted with the IPSP policy as outlined in my attached employee suggestion. (Attachment #1)

My experience with the USDA taught me that the people at the USDA are interested in job security, survival, promotions, and perks. M.P. ~~The~~ USDA is concerned in following the laws passed by Congress as long as it does not create problems within the industry.

M.P. ~~Specifically,~~ For example around in 1980, at a plant called Brennan's in Buffalo, New York, my boss at that time, Dr. Lane, called me up and said Dr. Telleen, the IPCG, was coming down for an inspection. I told Dr. Lane that I was not going to tell anyone that Dr. Telleen was coming down. The reason I refused to do this was that this plant was so bad and ~~the Congressman of the plant's owner had interferred in the past with the USDA.~~ my bosses had often interfered with my attempts to bring the plant into compliance M.P. The next day, Dr. Lane flew in from Albany. We went to the plant together. While visiting this plant, we noticed beef carcasses hanging in the cooler. There was condensation on the ceiling. I said that a rejection tag should be put on the ~~ceiling~~ rail. The owner of the plant said you can't put a tag there because he couldn't move the carcasses. After we went outside, Dr. Lane said, "Parker, you should not have said that about the condensation." I said, "If Dr. Telleen would see this, you would have either a significant #1 or #2 plant. Then you would have to fly from Albany to Buffalo because Dr. Hatter, the Regional Director, requires this

Manford Parker

Manfred Parker

when there is a significant #1 or #2 finding. Dr. Lane said, "He doesn't require me to fly down any more to visit the plants." It was clear to my by this statement that Dr. Lane was more concerned with public relations than stopping contamination.

Concerning Dr. Telleen's charges:

(4) The washing of contaminated product should not be allowed. This is especially true if the evisceration has not been done properly. The possibility of fecal contamination is much too high when this is not done correctly. The USDA's policy was always to trim versus washing while I was employed by them.

In real practice, I often saw the washing of carcasses M.P. ~~versus~~ instead of trimming.

Specifically, in 1958 at a turkey processer in Ogden, Utah, about 10-12% of the birds had feces on them. The Regional Director came in and said, "You have to get the fecal contamination down to 3%." I slowed down the line even more. I was still getting 5% contamination. The packer started complaining really hard. The packer called my boss's boss and complained. My boss came down and said, "Parker, let the line go." I said, "The contamination level is at 5%." He said, "Let it go." The contamination level went up to 12% then.

One time in 1973 in Buffalo, New York, there was a plant called Harget Realty owned by ~~the~~ M.P. Mr. Lefkowitz. His nephew or cousin was the Attorney General of New York State. This plant was built in 1887. This plant was a city block long, it was old and dilapidated. Dr. McDougal said to get it cleaned up in two months. I made a review of this plant. There were over 200

Manfred Parker

Manfred Parker 7

violations in this plant. Dr. Lane, my area supervisor in Albany, sent this back to me. He did not like the review. Dr. Lane said, "You wrote too many items on this, re-write it." Then Dr. Lane and Dr. Hatter flew down to Buffalo and spoke to the President of the Meat Packers Association, they made me wait out in the car. They never discussed this meeting with me.

Dr. Hatter said to me, "If you want to remain in Buffalo you must apologize to the packers for being unfair, unhuman, and dictatorial." I felt frustrated. The more work I did the more I was criticized.

Manfred Parker

SEPTEMBER 6TH, 1985

Manfred Parker
MANFRED PARKER

STATE OF Washington
County of Whatcom } ss.

On this 6th day of September A. D. 19 85 before me, the undersigned, a Notary Public in and for the State of Washington duly commissioned and sworn personally appeared Manfred Parker to me known to be the individual described in and who executed the foregoing instrument, and acknowledged to me that he signed and sealed the said instrument as his free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Jennifer M Blaw
Notary Public in and for the State of Washington
residing at Ferndale

(Acknowledgment by Individual. Pioneer National Title Insurance Company Form L 28)

Mr. Tom Devine and Dr. Carl Telleen
Government AccountabilitybProject
1555 Connecticut Ave NW Suite 200
Washington, D.C. NW 20036

202
232 - 8550

8/6/85

Gentlemen,

Ms Michelle Sullivan requested that I comment on Dr. Telleen's opinions sent to me by the Government Accountability Project and that I specifically address the problems of fecal contamination and the use of chlorinated water.

Use of chlorinated water - I believe that in-plant chlorination would definitely increase the shelflife of meat and poultry products if it was used on all product contact surfaces after they had been properly cleaned and all tissue had been removed. However, many plants have liked to use in-plant chlorination as an excuse for not having to clean equipment properly.

Many years ago, I have observed that the company was permitted to salvage malodorous decomposing poultry that I had retained by turning up the chlorine content of their in-plant chlorination system and then washing the poultry with the inside and outside washer. My supervisor requested that I would help him inspect the poultry as they came through the outside washer and condemned the ones that still smelled putrid. I could not detect many malodorous ones as my nose, eyes, andthroat were affected by the chlorine. I believe that many of the bacteria and some of the slime was washed of and that the shelflife was extended for a day or two. However, I am sure that the bacteria had already penetrated the tissues and that there is little doubt in my mind that within 1-2 days these chickens would be in a decomposed state

I agree with Dr. Telleen that the use of chlorine on meat and poutry products is not the proper way to extend shelflife although it is superior to the use of formaldehyde and other more toxic products that have been used in the past without USDA permission.

Washing fecal contamination - I am in complete agreement with Dr. Telleen that feces on meat when washed gets spreadsout on the tissues and penetrates into much of the tissues. In poultry, when the intestines are cut during the evisceration procedure, thebfeces frequently lodge around the pelvic area where it is impossible to wash it out.
For the reasons above, meat and poultry inspection required all fecal contamination tobe trimmed.

I was astonished at Mr. Gary Schmidt's requests to have Dr. Telleen provide USDA with the research literature proving that washing fecal contamination is detrimental. It was USDA who had decided that fecal contamination must be trimmed as washing is detrimental to Public Health. I feel that USDA needs to provide the literature of the research to prove that washing fecal contamination is not harmful.

However, in my opinion, even if USDA returnes to the policy of trimming fecal contamination, the overall effect will be negligible as when this policy was in effect, a large majoritynof plants that I visited (both officially and unofficially) were religiously washing the feces.

My main disagreement with Dr.Telleen's ideas- It is my opinion that even if USDA starts requiring bacteriological monitoring of product, requires trimming of fecal contamination, etc. etc. it is all for naught. These policies all look great on paper and help to protect the upper eschelon in Washington from criticism for consumer groups. In my experience,present regulations are not being enforced. I doubt if a anything has changed since I quit. The present policy of IPSP as outlined in my employee suggestionnis still in effect and probably has been since the inception of the program.

My suggestion outlined the problem and the solution. However, the solution has not been put into effect. If it was put into effect the Administrator who serves at the pleasure of the political party in power would not have his job long. This was undoubtedly the reason that Mr. Houston was not favorable inclined towards the suggestion. Maybe part of the suggestion should have been that the Administrator and others have some type of job security even if it is not civil service.

Sorry that I sound so cynical and skeptical but I am being totally objective and realistic and sincere in this matter. There is no use in kidding ourselves and wasting a lot of money on new laws til we first resolve the basic problem of IPSP.

Sincerely,

Manfred [illegible]

[illegible]

U.S. DEPARTMENT OF AGRICULTURE

# Employee Suggestion

Give your suggestion below. If desired, attach additional information, charts, sketches, etc. In presenting your suggestion, show:

(1) What is the present method?
(2) Disadvantages of present method
(3) The proposed method, and
(4) Advantages and/or estimated savings, and/or effect:
a. Why is it necessary?
b. What is its purpose?
c. Where should it be done?
d. Who should do it?
e. How is the best way to do it?

BRIEF SUMMARY OF SUGGESTION

Implementing and teaching PSP (Proper Supervisory Principles) to improve employee's performance and obtain acceptable compliance levels in the plants.

DETAILED EXPLANATION

Present Method - IPS is used by the area-circuit and circuit supervisors to supposedly improve the inspector's performance so that our programs will function at acceptable levels. IPS is a voluminous workbook with its own formulas, vocabulary, questions, and theories.

IPS has generally failed as it has not removed the main stumbling block to poor performance and unacceptable compliance levels. PSP (Proper Supervisory Principles), which will remove this stumbling block is not being used.

Obvious, but ignored, concepts and scenarios which are the basis for PSP, and explain why IPS has failed, are outlined below.

(1). Lower compliance levels in the plants usually tend to result in lower costs and higher profits for the packer. Higher profits mean a happier packer which tends to result in improved relations between the packer and inspection personnel.

(2). Conversely, when FSIS personnel insist upon raising unacceptable compliance levels or upon maintaining acceptable compliance levels during periods of economic hardship, profits will drop. This can result in financial difficulties for the plant and even plant closures.

(3). Plant owners, faced with the above problems, will often attempt to solve their financial problems by getting the inspector off their backs. If the inspector refuses to accept unacceptable compliance levels, the packer may use one or more of the following methods depending upon his political clout, character, etc.:

a). Complain to the level of supervision above the inspector-in-charge that he feels is most likely to be effective in getting the inspector to permit him to operate at a less than acceptable compliance level. This may be the area-circuit or circuit supervisor, area or regional personnel, etc.

| | | |
|---|---|---|
| SUBMITTED BY [illegible]<br>[illegible] | [illegible] | [illegible]<br>[illegible] |
| REVIEWED BY [illegible] | [illegible] | [illegible] |

[illegible]

b). Complain directly to elected officials, the administrator or Secretary of Agriculture, etc.

c). Complain to his packer's association which in turn uses their clout by contacting higher officials, senators or congressmen.

4). As most packers know, or soon learn, that they cannot complain that the USDA employee insists upon minimum acceptable compliance levels and expect to be exempted from the regulations and policies of the Agency, they use the accusation technique.

The accusations are varied and limited only by the ingenuity, imagination, character, and anger of the packer and may include the following:

a). The USDA employee is spreading rumors that he will close me down, and the bank must have heard this rumor as they will not renew my loan.

b). Inspector is harrassing me or other general statements that can't be pinned down and have no substance.

c). The USDA employee is trying to put me out of business.

d). The USDA employee tiptoes around the kill-floor in high heels with a pulled up dress, etc.,etc., ad nauseom.

e). The USDA employee is prejudiced against me because of my race, religion, nationality, or whatever.

f). All the inspectors go overboard in enforcing the regulations because they are afraid of their supervisor.

5). Inspection personnel may be friendly, fair, polite, courteous, patient, and diplomatic to the extreme, but this may not maintain the serenity of a packer who is faced with a profit loss.

All other factors being equal, the following statement is axiomatic:

> "Although Public Relations might be improved by a factor of 10, if the profits of the packer are cut in half, all hell may break loose in the complaint department."

6. Some supervisors do not comprehend the above concepts. Many more comprehend the above concepts, but are unwilling to come to grips with the problem or apply the PSP explained later in this suggestion for numerous reasons including:

a). Extra time, work, effort, and documentation needed to adequately investigate the accusation and defend his own judgement and decision in the matter.

b). His fear that even if he properly investigates and documents the matter and finds the inspection personnel to have acted with propriety, he may be criticized by his supervisors especially if the packer has political clout.

c). Even if the supervisor does not have a pusillanimous character, he realizes tha the waves he creates may have a negative effect upon his promotion or merit pay. He decides that discretion is the better part of valor.

d). If the packer's complaints go above the supervisor who was doing the investigating, the supervisor may be accused of not being able to handle his own problems by his superiors.

7). The supervisor will often use IPSP (Improper Supervisory Principles) which usually quickly and quietly corrects the immediate problem of the packer complaint while damaging his subordinate's long range performance a thousand fold. The supervisor does this as follows:

a). Meets with the packer without his subordinates being present, listens to his complaints and verbally and/or through body language lets the packer know that he is on his side.

b). Comes down hard on his subordinate with such varied and interesting statements as:

A. If 35% of the packers don't like you, they may have to move you.

B. If you wish to remain in your position, you must apologize to the packers for being dictatorial, inhuman, and unfair.

C. Why are your inspectors still harrassing the packers?

D. There have been too many complaints about you. Where there is smoke there is fire. If I hear anymore packer complaints, I will recommend your demotion and transfer.

E. How come you cannot get along with the packers?

F. I am concerned about your lack of diplomacy and poor public relations.

DISADVANTAGES OF THE PRESENT METHOD - They are very wide-ranging, destructive, numerous and include the following:

1). Lower level supervision decides that harmony with the packer has priority over acceptable compliance levels. He will then insist that only those problems are corrected which can be readily checked by IPCG.

Many of the programs will look good on paper. The programs which are not objectionable to the packer will also be diligently enforced. In actuality, many compliance levels will be unacceptable much of the time.

2). A small minority of the supervisors will be naive fools, insist upon minimum acceptable compliance levels, cause packer complaints, receive the treatment outlined in item (7), b, A-F above and then react by raising hell. There are not many of these supervisors, otherwise the system would have been changed long ago.

3). Many supervisors will take the earliest retirement that they can afford, as they consider the work frustrating and non-rewarding. This is expensive for the taxpayer.

4). We spend a great deal of money training veterinarians. Few will remain with us after their experience with our IPSP (Improper Supervisory Principles).

5). Undoubtedly, the needless frustrations and stresses of IPSP result in an increase in such psychomatic diseases as high blood pressure, coronaries, ulcers, etc. This of course results in high costs due to S.L., early retirement, disability retirement, life insurance, etc.

6). Lower levels of supervision often will quietly consider the higher level of supervision with disdain, suspicion, lack of respect, and will be slow and cautious when implementing new instructions from above.

7). The higher level of supervision keeps wondering why the lower level of supervision is not implementing the programs, and probably why SPS is not working.

PROPOSED METHOD - Implement PSP (Proper Supervisory Principles) as follows:

1). Unlike SPS, which was only used by lower level supervision, PSP must start at the Washington level.

2). All levels of supervision must be taught the concepts and scenarios and their disadvantages as described above.

3). All levels of supervision must be informed that it is USDA's policy to thoroughly investigate all packer's accusations by thorough questioning of all concerned parties. Each case will be adequately documented.

4). Although, obviously our inspectors are not all angels, and some on occasions are vengeful, make poor decisions, etc., these problems will be handled separately, and will never be used as an excuse for not requiring the packer to meet acceptable compliance levels.

5). When the packer or the packer's association make complaints and accusations, they must understand that we do not mix apples and oranges. In other works accusations against inspectors will be handled separately from the problem of compliance levels.

We must assure them that USDA will not trade their responsibility to meet the minimum acceptable standards against the packer's withdrawal of either a false or true accusation.

5). Congressional inquiries need to be answered so that senators and congressmen clearly understand that in a republic, we do not play favorites, that the laws will be enforced uniformly, and that if congress passes different laws, we will obediently follow their laws.

7). As IPSP (Improper Supervisory Prinicples) are probably among the most destructive policies in our agency, all levels of supervision must be advised that their performance with respect to PSP will be considered and heavily weighed at rating time. Bonuses and merit pay must depend upon their implemntation of PSP.

ADVANTAGES AND SAVINGS - These include:

1). Doing away with all the disadvantages listed on Page 3 and 4.

2). Higher compliance levels, fewer Category 1 and 2 plants, higher morale, more respect for, and pride in the Agency by its employees, and more cooperation and teamwork between different levels of supervision.

3). Granted, when packers see that their appeals to FSQS are not as effective as previously, many will go the congressional route. However, if we implement step 5 and 6 above, false accusations will diminish.

In the long run, there will be fewer congressionals as the packer learns that false accusations and complaints are not helping him anymore and in fact may cause embarassment.

His legitimate complaints will be handled on the local level, as no supervisor wants a legitimate packer complaint to go above him.

4). The voluminous gimmickry of SPS can be condensed into several pages and combined with a supervisoryhandbook. SPS and PSP should also be taught to newly-hired supervisors.

[illegible] 3-9-88

MEMORANDUM

To: Donald Dijulio, Office of Special Counsel

From: Michelle Sullivan, Governemnt Accountability Project

Re: Draft statement based on interview with Bill Sloane concerning the July 28, 1985 United States Department of Agriculture Report on Dr. Carl Telleen charges.

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On August 25, 1985 I interviewed Mr. William Sloane and prepared the draft statement below whose accuracy he has confirmed verbatim:

In December of 1941 I volunteered for the United States Navy. I was sent to Cooking and Bakers School in Norfolk, Virginia. After I was honorably discharged in 1945, I enrolled in the University of Houston and completed 36 semester hours of college credits. I then accepted a job as a city policeman in ~~Necodenes,~~ NAcodoches, wcs Texas. I worked there for one year and became a deputy sheriff. In 1954 I then started working for the United States Department of Agriculture as a poultry grader. In 1958 I transferred into the inspection division. I was then transferred to Philadelphia as a processing inspector. In 1958 I received poultry training in Kansas City, Kansas for two weeks. My training was then continued on the job for one week.

In 1960 I received a certificate of merit for outstanding performance on the job. I then became a cross licensed meat processing and a poultry inspector. In 1966 the USDA started their Compliance staff. In 1968 I became a Compliance Officer. The Compliance Division promoted me to Washington, D.C. in ~~1970.~~ 1972 wcs In 1971 I received another award for outstanding performance.

William C. Sloane

[illegible] 3.9.98

William C. Sloan

I was qualified as an expert witness in the "Fraley" case in Washington, D.C. by the judge at the trial. Mr. Lou ~~Gest~~ M. Don Goodman was sent me a letter of commendation for my work on this case. During the course of this case, I then met Jerry O'Brien, the O.I.G. agent who interviewed me for this report.

I felt that Mr. O'Brien could have put more into the report. He did not get all of the facts. I realize that he was rushed to make his plane connections, but I believe he should have spent more time taking my statement.

In my statement I stated that I resented Dr. Bartlett not letting me give a plant that had 8,000 lbs. of contaminated hams a significant #1 finding. This happened in 1981. I specifically remember that these were cured hams laying on a shelf that was covered with slime. I had taken Mr. Traylor out on a training trip for two weeks. Before he and I entered that particular plant I had asked him if he would like to try to Review this plant. So when we observed the contaminated hams my position was that I was supposed to be instructing Mr. Traylor. I told Mr. Traylor to call this in to Lawrence, Kansas. This plant was a Talmedge-Aiken plant. There were State inspectors there under Federal supervision. When Mr. Traylor called this into the office, Dr. Bartlett said it wasn't a significant #1 finding since it did not involve 34,000 pounds of product or more. This took place at the Oswega Meat Company in Colquitt, Georgia. Before this time, if one carcass fell on the floor and if it wasn't trimmed, plants were to get a significant #1 finding. The Meat

William C. Sloan

Sheila J. Smith, Notary Public
In and for the State of Texas
My Commission Expires 3-9-98

William C. Sloan

and Poultry Act says, no adulterated meat should be passed. The figures of acceptable, contaminated meat products are irrelevant.

If 25,000 lbs. of adulterated food product was used in food processing, this would feed 100,000 consumers.

I know for a fact that Traylor was shaken up by Dr. Bartlett's response. I believe that he was very upset. He said that "he could not push the issue of giving the plant a significant #1 finding because he was a GS-12 and it could interfere with him being a GS-13." He was the first GS-11 that the Review and Evaulation Program hired and he had just gotten a promotion. Mr. Traylor was surprised and upset by the 28,000 lbs. figure. Mr. Traylor did not know about that figure before we went on the trip, NOR DID I KNOW OF ANY Such FIGURE
WCS

Concerning the issues raised by Dr. Telleen:

1) This first issue was relevant to me in the following manner. I do remember that it was mentioned that we were running out of money. Everyone sat around for two months and did not do any work. At a staff meeting March 30, 1981 in Lawrence, Kansas, Dr. Bartlett announced that he had just returned from a meeting in Washington, D.C. He said he attended a meeting there, and he was told that our group was overstaffed and there was not enough work to keep us busy. To justify the next quarter we were going to review "fewer plants". Instead of assigning the regular 28-30 plants per trip per R and E members, per trip, we will cut it down to 15 plants per trip. Then we were instructed, "after you do one or two plants per day, whichever, return to your hotel room." Two weeks out constituted

William C. Sloan

Sheila L. Smith, Notary Public
[illegible]
My Commission Expires 3-4-98

William C. Stone

eight working days, two days were travel time. At this time, there were 19 reviewers plus support staff, half were food inspectors, half were veterinarians.

On May 29, 1981 at another meeting in Lawrence, Kansas, Dr. Bartlett said that the cost of operations for the Program Review Branch in Lawrence, Kansas, followed: Salaries were $884,000 for Lawrence only; Travel expenses were $265,000; And miscellaneous expenses were $75,000. Dr. Bartlett said it took $1,224,000.00 to run this program for one fiscal year. Dr. Bartlett said "the reason they" meaning Washington "wanted to do away with this group" meaning the Review and Evaluation Program, us, he "could not understand."

He said that he stated at a meeting in Washington that, "This was not the place to come to save money."

At this same meeting, the Assistant Chief, Jim Blank, instructed us to "back off for now, on assigning catagories #1's and #2's, and if there are only a few significant #3 findings, assign a #4 category to the plant." The Chief said "get out and sell the program. Spend more time with plant management." This was being proposed to appease plant management.

So, concerning Dr. Telleen's allegation, it is true that we were told to "lay off giving Significant #1's and Significant #2's. And if there are only a few Significant #3's, give it a #4. Since Significant #1's plants product meant that it was contaminated or adulterated, it is true that we were told not to report contamination or adulteration of product.

William C. Stone

[illegible] Notary Public
[illegible] State of T[illegible]
My Commission Expires 3 9 88

William C. Sloan

2) The 28,000 lb. figure was kicked around. Originally it was during a group meeting in Lawrence, Kansas. We were advised that interpretation for "all or a great majority of product involved is listed in the following examples. Plant A; if it is a small operation and the misbranded/adulterated product observed is not as much as 34,000 lbs. than it is not a category #1 plant.

During the meeting, I got up and questioned this. I said "we are talking about 17 tons of product. If it is a ready-to-eat product it will feed 340,000 consumers." I was hot. I had been a Compliance Officer with this group and we were supposed to report any contamination. If it was a hamburger product and for example it went to McDonalds and was sold as quarter pounders, then it would feed 136,000 consumers. Thus, it was possible for these many consumers to receive this contaminated food product. In response to my question Bartlett and Blank said something like, "This is the figure we have come up with, you are just going to have to live with it." The meeting progressed and we discussed other issues.

As a conscientious government employee, I was very upset. I was trained to follow the law. It was my opinion, the Review Group at this point was not following the provisions of the Meat and Poultry Inspection Act.

3) The greatest majority of the Review Members had their reports changed by their supervisors--they would complain about it all the time. I would hear them complain about it all of the time.

William C. Sloane

William C. Sloan

[illegible] J. Smith, Notary Public
In & For The State [illegible]
My Commission Exp. 34-88

Now, they may not talk because they are afraid. They have reason to be afraid. Management made examples of those who wouldn't go along with the new appeasement policies.

One specific instance that happened to me occurred after I had taken a new employee, Jerry Traylor, on a training trip. We were in a poultry plant. I had observed a whole tank of chicken gizzards. There were approximately 700-1000 pounds of chicken gizzards. The majority of the gizzards still had part of the liner attached. The liner is not edible. This should have been a one category.

But my report was re-written. The violation involving the chicken gizzards had been deleted by the suprevisor, Dr. Bartlett. After it was re-written I signed the report, but I wrote under my signature signed under protest. When Dr. Bartlett saw this, he called Washington. He verbally reprimanded me, explaining that Washington didn't appreciate that report being signed under protest. He said, "Sit down. I want to talk to you." I detected that he was angry. I got up to leave. He jumped out of his chair and he raised his voice in a hateful manner, he pointed his finger at me and said, "Sit down, I am not finished with you yet." I sat down and said, "You are holding me here against my will." For a minute or two, no words were exchanged. He then said, "OK, Mr. Sloane, you can go now."

One hour later he came back to my desk and said the Director of the Program Review Branch in Washington wanted to see me. So, I flew to Washington the next day. The Program Director was unavailable then, he was at a meeting. I did talk to the Deputy Director, Mr. Gould. He wanted to hear my side of

William C. Sloan

[illegible] J. Smith, Notary Public
In and For The State of [illegible]
My Commission [illegible] 3 9 99

William C Sloan

the story. He said, "Bill, I just don't want you to get the reputation of a trouble maker." I said, "John, 29 years of service and I have never been fussed at before, and now this instance happens." I was talking about the reports being changed. I sensed that he was favoring Dr. Bartlett, but Dr. Bartlett's verbal reprimand was not formalized on my record.

Approximately 3 months later, I retired. I retired because I thought that allowing the large amount of contamination being passed onto the consumer was wrong.

I was a former Compliance Officer. I now was a Review Officer. I was told by Dr. Bartlett, "You are a Review Officer, not a Compliance Officer. You should change your way of reporting your findings." In my mind, the jobs were very much the same, as far as what to report. Both jobs are helping to enforce the same law and the facts shouldn't have been different because I was not in Compliance. It's a question of integrity, not writing style.

4) We were always taught by the USDA, and practiced that you cannot wash the fecal contamination off of raw exposed tissue. If you tried to wash it off, it would imbed the contamination in the meat. Food and Safety Inspection Service (FSIS) in the past has said that washing is ineffective. It is my professional opinion that contamination should always be trimmed. I am not upset at any individuals, but I am upset at the program.

I would also like to state that "Many great men have poor handwriting."

William C. Sloan

William C. Stone
3155 French Rd. Apt. 54
Beaumont TX 77706
September 2, 1985

Sullivan.

I made a few changes in the statement, spelling of Nacogdoches, TX, the year that I had been promoted to Washington D.C. and checking my records I found that it was Milton Goodman who issued the 1/15/76 letter of Commendation for my involvement in the Fraley case. Mr. Goodman was Director of the Compliance Staff at the time, tho Mr. Gast had sent me two or three letters of Commendation in the past involving this matter.

I very much believe that the enclosed signed statement will only damage my credibility, because it differs in part with the statement given to Special Agent Jerry O'Brien on May [illegible], 1985, tho in some [illegible] statements are true, my letter to you dated

August 26, 1955 explains the reason why my statements differ in part; when Mr. O'Brien asked me had I ever been reprimanded, I replied no, meaning that I had never been reprimanded officially such as any letter or anything that would be put in my personnel file. Now the incident involving [illegible] when he called me into his office to discuss the report which I signed under protest then his actions are classed as a verbal reprimand. [illegible] the matter further I was not ever told not to report contamination on product, my interpretation of Mr. O'Brien [illegible] not, with [illegible] to great weight on the one my letter of August [illegible] and accompanying copy of my

matter from the 5/27/80 meeting held in Lawrence, KS.
I further believe that information needing to become part of your report are that the readers of the report can weigh the content of the statements which I have given, the information in both statements were given in good faith and the discrepancies are honest errors.
If I can be of any further help, please feel free to contact me. Also would it be possible to be sent a copy of my condensed statement as at that time I did not have access to a copying machine.

Sincerely yours

William C. Sloane
3155 French Rd. Apt. 54
Beaumont, TX 77706
August 26, 1985

Dear Ms Sullivan

I am sending you the enclosed documents that we discussed over the telephone on August 25, 1985, this material also includes a copy of a letter that I wrote to Dr. D. L. Houston, Administrator, USDA, FSIS, MPI. on February 7, 1982, advising of review reports being changed by Program Review supervisors and other matters.

You will note there are two subjects we talked about and the information that I furnished to you conflicts with my signed statement, dated May 16, 1985 given to Special Agent Jerry O'Brien, Office of the Inspector General, USDA.

Pertaining to the matter, have I ever been told not to report contamination on product unless it was visible, my response to Mr. O'Brien to this was, I had never been instructed not to report evidence of contamination unless it is visible .. see page 5 of signed statement. After signing said statement I have since gone over some notes which I recorded during a staff meeting held at PRB office, Lawrence, KS on 5/29/81, these notes indicate that we were advised by the Assistant Chief PRB., that we were to back off for now on assigning category 1 and 2's and if there are only a few significance 3 findings assign a 4 category.

If these 5/29/81 instruction can be construed as being told not to report evidence of contamination on product, ~~that~~ W.C.S than I will have to rescind that portion of my statement to Mr. O'Brien

In the statement I further stated that I had never been reprimanded for signing a plant review report which I had conducted and signing the report by putting the notation signed under protest, due to the wording in the report being changed to make the deficiency that I had reported sound less severe.

see page 1&2 of my signed statement dated May 16, 1985 - which describes this incident

Now if Dr. Bartlett actions on the matter can be interpreted as a verbal reprimand ~~that~~ was than I will have to say that I had been reprimanded

Ms Sullivan, I am also sending copies of several documents which point out my working habits. Letters of Commendation Certificates of Merit for superior

4.

-performance while with the Meat & Poultry Inspection Program, as an Inspector, Compliance Officer and Review Officer.

I hope these documents will point out that I was knowledgeable in my responsibilities with the Meat & Poultry Inspection Program and that it shows that I was not a trouble maker.

Hoping these comments will be of value to you and Dr. Tellen. If any of this information need to be explained further please advise

Sincerely
William C. Sloane

Meeting 5/29/81

Cost to operate Lawrence KS. PRB.
1981

| | |
|---|---|
| Salary | 884,000 |
| travel | 265.000 |
| miscellaneous. | 75.000 |
| | 1,224,000 |

MPI 27 Area Offices. cost. 5,500,000.

Chief comments. why they wish to do away with this group. "can not understand" for the small amount it cost to operate. (Not a place to come to save money)

Ass. Chief. Back off for now on assigning category 1 & 2's, and if there are only a few ~~cat~~ significance three finding - assign 4 category

Chief "get out and sell program. spend more time with plant management.

W.CS

Staff Meeting

Chief: Returned from Washington & attended meeting advised our group. PRB over staffed not enough work to keep us busy. To justify next quarter we will do fewer plants, instead of assigning the regular 28 to 30 plants per trip we will cut it down to 15 plants per trip.

And after you do the one or 2 plants per day which ever, return to you motel ~~room~~ room.

W.CS

Ms Sullivan:
You will note the date did not show in the upper right hand corner, the original shows 4/30/81

[illegible]
[illegible]
[illegible]
September [illegible], 1985

Ms [illegible]

I made a few changes in the statement after my recollection of the year that I had been promoted to [illegible] and checking my records I found that it was Mister [illegible] who issued the [illegible] letter of commendation for my involvement in the [illegible] case. Mr. Goodman was Director of the Compliance staff at the time, tho Mr. [illegible] had sent me two or three letters of commendation in the past [illegible] this matter.

I [illegible] much [illegible] that the [illegible] statement [illegible] damage my credibility, because it differs in part with the [illegible] statement [illegible] May [illegible] 1985, the [illegible] statements [illegible] dated [illegible]

[illegible] [illegible] appearing in the
[illegible] [illegible] statement
[illegible] [illegible] [illegible]
[illegible] had [illegible] been
[illegible] [illegible] [illegible]
[illegible] that I had [illegible]
been [illegible] officially [illegible]
[illegible] [illegible] that that
would be put on my [illegible]
[illegible] the [illegible] meeting
[illegible] that when he called me
into his office to discuss the
report which I accepted under
protest [illegible] [illegible] are
[illegible] [illegible] experienced.
[illegible] [illegible] [illegible]
It [illegible] [illegible] related not to
expect [illegible] [illegible] product,
my [illegible] [illegible] [illegible]
not [illegible] to
point [illegible] the [illegible] my
[illegible] [illegible] and
[illegible] [illegible] of my

[illegible]

[illegible]

[illegible] the [illegible] that [illegible]

[illegible] part of [illegible]

[illegible] that the [illegible] of

[illegible] report [illegible]). The

[illegible] of the statements [illegible] had

[illegible] information

[illegible] statements [illegible]

[illegible] and the discrepancies

[illegible]

If I can be of any further help

please [illegible] me

[illegible] the possibility to be sent

a copy of my enclosed statement,

[illegible] not have

[illegible] machine

Sincerely yours

William C. Sloane
3155 French Rd. apt. 54
Beaumont, TX 77706
August 26, 1985

Dear Ms Sullivan

I am sending you the enclosed documents that we discussed over the telephone on August 25, 1985, this material also includes a copy of a letter that I wrote to Dr. D.L. Houston, Administrator, USDA, FSIS, MPI, on February 7, 1982, advising of review reports being changed by Program Review supervisors, and other matters.

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Ms Sullivan, I am also sending copies of several documents which point out my working habits. Letters of Commendation Certificates of Merit for superior performance while with the Meat & Poultry Inspection Program, as an Inspector, Compliance Officer and Review Officer.

I hope these documents will point out that I was knowledgeable in my responsibilities with the Meat & Poultry Inspection Program and that it shows that I was not a trouble maker.

Hoping these comments will be of value to you and Dr. Teller. If any of this information need to be explained further please advise

Sincerely
William C Sloane

During one of our group meeting we were advised that the interpretation for all or a great majority of product involved is listed in the following examples,

Plant A
If it is a small operation and the misbrand/adulterated product observed is not as much as 34,000 pound than it is not a 1 catagory plant.

We are talking of 17 tons of product
If it is a bologna type product ~~it will 12~~ it will feed,
(one pound will make 10 sandwich

340,000 consumers.

If it is hamburger product
17 tons 34,000 lbs
(Say McDonalds 1/4 pounder)
will feed 136,000 consumers

~~Plant B.~~
~~Producing must more the the~~ 34.000 lbs
~~If the above coverage is~~
If the same adulterant/misbrand is observed on

Plant B.

Production is greater than the 34,000 pounds of product produced by plant A and if the same adulterant or misbranding is observed on as much as the 34,000 pounds described in above. Then it is no serious finding because all or the great majority of product being produced at this (Plant B) establishment is not involved.

Yet the 34,000 pounds of product from plant B will feed the same amount of consumers ~~that the effected~~ as from plant A.

?

at one of the Correlation Meeting ~~Dr Harman~~ a finding showing a product labeled as boneless hams ~~[illegible]~~ ~~which~~ was being shipped reviewer examined said product which revealed that the ham products contained pieces of bone.

Dr. Harman advised that it was no finding because ~~[illegible]~~ detrimental ~~[illegible]~~ we do not know if it is ~~detriment~~ to the consumer prove to me I do not know what this product will see to at Retail

# United States Department of Agriculture

# Certificate of Merit

*awarded to*

WILLIAM C. SLOANE

Meat and Poultry Inspection Program
Animal and Plant Health Inspection Service
Washington, D.C.

For continuing excellence in the performance of your assigned duties contributing greatly to the efficiency and effectiveness of the Compliance Staff.

October 1973

Deputy Administrator
Field Operations

United States
Department of
Agriculture

Food Safety
and Inspection
Service

Washington, D.C.
20250

September 18, 1981

Mr. William Sloan
Compliance Review Officer
Program Review Branch
2400 West 31st. Street
Lawrence, KS 66044

Dear Bill:

I want to take a minute to express my gratitude for your excellent guidance during my review of processing operations this past week. Your experience and insights are great benefits that you graciously shared, and enabled me to keenly perceive the broad context of the non-continuous inspection issue. The depth of your inspection and compliance knowledge is evident and the Agency will miss your presence.

You're a fine gentleman. Thanks for your help and enjoy east Texas.

Sincerely,

Wayne A. Batwin
Program Analyst

United States
Department of
Agriculture

Food Safety
and Inspection
Service

Washington, D.C.
20250

SEP 1 4 1981

Mr. William C. Sloane
Program Review Officer
Program Review Branch
Review and Evaluation Staff
Lawrence, Kansas 66044

Dear Bill:

Congratulations on your retirement! I see the old Compliance grapevine still works and I got the word in time to send you this note.

Bill, I am glad I had the opportunity to know you and work with you over the years. As both a Compliance Officer and Review Officer you made outstanding contributions to the safety and well-being of the public. You will be truly missed.

My best wishes to you and your family as you enjoy the good life in Texas. Please keep in touch.

Sincerely,

Lou

L. L. Gast
Acting Associate Administrator

United States Department of Agriculture
Food Safety and Quality Service
Meat and Poultry Inspection Program
Southwestern Region
1100 Commerce Street, Room 5-F41
Dallas, Texas 75242

October 9, 1981

William C. Sloan
Rt. 3, Box 238B
St. Augustine, TX 75972

Dear Bill:

Sorry this did not reach you before your retirement, but I have been out of commission with my back for about 8 weeks. I'm doing much better now.

First, I want to congratulate you on your retirement and wish you and your family many happy and fruitful years ahead.

Secondly, I want to express my appreciation for having the opportunity to work with you for over four years in what I still consider to be one of the most important programs in Meat and Poultry Inspection. Without your cooperation we could not have developed the program as we did. There were trying times in the development, but with your help and cooperation, along with the other reviewers, I think we can all be proud of our accomplishments. Your input was invaluable and as I continue through my career, I will always remember you for your high ideals and honest convictions.

If you and your family are ever in Dallas, drop by and see us. My wife and I would really enjoy it.

Again, best wishes and lots of happiness.

Sincerely,

Gene

Charles E. Harmon, DVM
Deputy Regional Director

UNITED STATES DEPARTMENT OF AGRICULTURE
CONSUMER AND MARKETING SERVICE

WASHINGTON, D.C 20250

DATE JUN 23 1970

SUBJECT Memorandum of Appreciation

TO William Sloane, Compliance Officer
Compliance and Evaluation Staff
Philadelphia, Pennsylvania

I had hoped to write an individual memorandum of appreciation to each of you rather than one stereotyped memorandum to all of you. However, I find that time does not permit that luxury.

Regardless of that, I want each of you to know that I do appreciate the excellent manner in which you carried out a most sensitive and difficult assignment. I am referring to the review of selected federally inspected plants and nonfederally inspected plants with grading service.

I believe the assignment in every case was carried out properly and effectively and that your reports accurately reflected, without bias, the conditions of sanitation observed during the reviews made.

It is personally gratifying to know that this Staff includes individuals such as you who possess the high degree of integrity necessary for the type of work we are responsible for carrying out.

I enjoyed very much meeting briefly with each of you in the field during this assignment. Thank you once more for your individual and team efforts in this important job.

L. L. Gast
L. L. Gast, Director
Compliance and Evaluation Staff

FORM C&MS-400 (8-3-68)

U.S. DEPARTMENT OF AGRICULTURE FOOD SAFETY AND QUALITY SERVICE

# *Memorandum*

DATE: DEC 12 1978

TO: William C. Sloane, Review Officer
Program Review Branch, EED
Lawrence, KS

FROM: Robert W. Gonter, Acting Director
Evaluation and Enforcement Division

Robert W. Gonter

SUBJECT: Memorandum of Appreciation

May I take this opportunity to express my gratitude and thanks for the outstanding service you performed for our Evaluation and Enforcement Division during your recent trip to Hawaii, American Samoa, and Guam.

The quantity and quality of work produced and your willingness to assume these compliance activities, in addition to your normal duties, is appreciated by everyone concerned. Many thanks for a job well done.

FSQS FORM 2630-9 (4/78)

UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
ADMINISTRATIVE SERVICES DIVISION
HYATTSVILLE, MARYLAND 20782

# TRANSMITTAL OF SECURITY CLEARANCE CERTIFICATE

**FOR OFFICIAL USE ONLY** Date: 4/30/73

To: William C. Sloane
APHIS - MPIP - FO
Compliance Staff

Attached is a Certificate from the Department Security Officer authorizing the employee identified below to handle classified material up to and including the classification indicated.

| | | | |
|---|---|---|---|
| NAME OF EMPLOYEE<br>SLOANE, William C. | | LOCATION (Duty Station)<br>Washington, D. C | |
| TYPE OF CLASSIFICATION | | | DATE OF CERTIFICATE |
| TOP SECRET ☐ | SECRET ☒ | CONFIDENTIAL ☐ | 4/25/73 |

Please forward the Certificate, together with the USDA Records Security Regulations and APHIS Directive 253.1 to the employee

*The certificate should be signed and dated by the employee, and returned to this office.*

Enclosures 3

**FOR OFFICIAL USE ONLY**

| | |
|---|---|
| FROM<br>A. O. Dusenbury | TITLE<br>APHIS Records Security Officer |

APHIS FORM 35
MAR 1973

WHICH REPLACES APHS FORM 35, JAN 1972, WHICH IS OBSOLETE

OP-438Sa (Rev. 2/70)

UNITED STATES DEPARTMENT OF AGRICULTURE
Office of Personnel
Washington, D.C. 20250

## CERTIFICATE OF CLEARANCE AND/OR SECURITY DETERMINATION UNDER E. O. 10450 (DPM 732)

REPRODUCTION OF THIS CERTIFICATE IS PROHIBITED

To: Michael Mattie, Agency Records Security Officer
Animal and Plant Health Inspection Service

From: Department Security Officer

Subject: William Cameron Sloane
Animal and Plant Health Inspection Service

This is to certify that in accordance with the provisions of Executive Order 10450, the above-named person

/N/A/ has been found eligible to occupy a critical-sensitive position.

/XX/ has been found eligible to occupy a noncritical-sensitive position.

/XX/ is authorized to have access to classified material on a need-to-know basis up to and including SECRET.

Remarks:

April 25, 1973 — Date

Clyde W Fox Jr — Department Security Officer

### ACKNOWLEDGMENT

I have received a copy of the Records Security Regulations and acknowledge that it is my responsibility to thoroughly familiarize myself with the contents thereof.

Date

Signature of Employee

If the status of the above-named employee changes, the Agency Records Security Officer and the Department Security Officer should be notified immediately. Status changes include, but are not limited to, removal from critical/noncritical sensitive position, transfer to another agency of Agriculture or another Government agency, resignation, retirement, and name changes.

**THIS FORM, WHEN SIGNED BY THE EMPLOYEE, SHOULD BE PLACED ON THE PERMANENT SIDE OF THE PERSONNEL FOLDER.**

U.S. DEPARTMENT OF AGRICULTURE ANIMAL AND PLANT HEALTH INSPECTION SERVICE

# *Memorandum*

SUBJECT: Memorandum of Appreciation

DATE: JAN 15 1976

TO: William Sloane, Review Officer
Inplant Compliance Group
Compliance Staff

I would like to take this opportunity to express our appreciation for the outstanding contribution made by you during the recent court proceedings involving the trial and conviction of a State of Maryland meat packer.

I fully realize that it is through hard work and dedication of employees like you that APHIS is able to carry out its goal of protecting the consumer.

I commend you and other members of the Compliance Staff for the professional manner in which our responsibilities were met.

Milton L. Goodman
Director
Compliance Staff
Meat and Poultry Inspection Program

William C. Sloane
Rt 3 Box 511
San Augustine TX 75972
February 7, 1982

Dr. A. E. Houston
Administrator
[illegible] 215 MIT
[illegible] 20265

Dear Dr. Houston:

My name is William C. Sloane. I have recently retired from federal service having been assigned to the Review Group located in Lawrence, KS.

I am writing in regards to incidents which occurred during my later months at that assignment. The reason that I am just now conveying the following comments on to you is because I was in a conversation with one of my former co-workers from the Review Group and he advised that conditions, under the present supervision, are getting worse, and that others in the Review group were planning on bringing such to your attention.

The following information should explain what I mean by the word "worse". And you can take it for what it is worth.

On many occasions when myself and other Reviewers conducted reviews and submitted our written reports, they, reports, would be scrutinized by two supervisors, if the wording in the report did not fit their fancy they would *select* what words should and *would* be used.

As you are aware, the reports in question are the written explanation as to the condition and degree of any irregularities contrary to the Acts and regulations which the reviewer observed at the time a plant review was conducted. And further, the supervisor, having not been present during these reviews, could not justly advise as to how the finding should be emphasized.

In my opinion some of the word changing did, in fact, change the context of the finding.

on one occasion I signed one of my reports, which had the wording changed, with a notation "signed under protest," and this caused quite an upset in the supervisory staff.

I believe my comments as to the word changing of reports can be substantiated by others assigned to the Review Group and an in depth examination of the review records maintained in Lawrence, KS file.

There were incidents when the reports had been changed and rewritten as many as four times.

During my last few months assignment at Lawrence, we

were instructed that while conducting a review, if as much as 30,000 pound of adulterated or misbranded finished meat or poultry product was observed, not to put too much emphasis on the finding. On one incident several thousand pounds of dry cured hams and bellies were coming in direct contact with contaminated surfaces and because the amount of product did not involve 30,000 pounds or more it was handled as a less than serious finding, by instructions from supervision.
I hope it is realized that if the 15 tons of product were frankfurters, the average one pound packages of franks consisting of 10 count thereby would feed as many as 300,000 consumers, or, one pound of bologna averaging 12 slices per pound we are then talking about 360,000 consumers.

At a staff meeting, conducted in Lawrence, one supervisor has expressed his belief that the responsibility of consumer protection should be left entirely up to the consumer. And, giving the example, that if a housewife purchased a water added meat product and cutting into the product when she arrived home, found an excessive amount of water, she would not purchase the same brand name product again. I contend that she should not have to pay for an inferior "inspected product in the first place.

Still on another occasion, at a staff meeting, it was voiced by a Supervisor that on one of the review reports submitted, it was stated that a truly adulterated product ready for shipping was labeled in such a manner as to make it of a greater value than it truly was. This supervisor stated that, by standards this was no finding

6

due to the fact that when the consumer removed the product from the package and noted the product was of an inferior quality she would return to product to the store for a refund.

If this is the true attitude of the supervision located in Lawrence, KS, Review Group Then there is something lost between the Acts and Regulation And the Lawrence level, thereby depriving the consumers the protection they are entitled to and betraying the trust said consumers are showing when buying a Federaly inspected meat or poultry food product.

You may feel that the above mentioned episodes do not warrant investigation, but I feel that I am under obligation to bring what I consider "deficiencies in service to the consumer" to your attention before matters get completely out of hand.

Respectfully
William C. Sloane

Nelson -
Keep this before I [illegible]
then back sometime [illegible]
[illegible] —
Dick

✓ 1-201 - General Definitions
1-203 - Good Faith Provisions
1-206 - Statute of Frauds
✓ 2-403 - GFP - Entrustment
✓ 2-313 - Express Warranties.
✓ 2-314 - Implied Warranty of Merchantability
✓ 2-315 - Implied Warranty of Fitness
2-209 - Statements Subsequent to the Contract
1-103 - Mutual Mistake of Fact
2-613 - Casualty to Identified Goods.
✓ 2-202 - Parol Evidence
✓ 2-312 - Warranty of Title
✓ 2-316 - Disclaimers of Warranties
✓ 2-719 - Limitation on Damages
— 9-206 - Sales Warranties modified in Security Agreements
Restatement §402A + Warranty Exclusions
Magnuson-Moss Act
✓ 2-607 - Vouching - In
✓ 2-509 - Risk of Loss
2-503 - Tender of Delivery
2-104 - Receipt of Goods, Merchant.
2-505 - Shipment w/ Conditions
2-709 - Action against Buyer for Price
2-319 - F.O.B. + F.A.S.
2-320 - C.I.F. + C+F.

UNITED STATES DEPARTMENT OF AGRICULTURE
Animal and Plant Health Inspection Service
Incentive Awards Committee

Agency No. ____________

## NOMINATION FOR SPECIAL ACHIEVEMENT AWARD

| | |
|---|---|
| NAME: | Wiliam C. Sloane |
| DIVISION: | APHIS:MPIP:Compliance Staff |
| HEADQUARTERS: | Washington, D. C. |
| DESIGNATION, GRADE, AND SALARY: | GS-12, Compliance Specialist, $16,682 |
| PERIOD OF PERFORMANCE: | November 24, 1972 to present |
| DATE OF LAST PROMOTION: | November 24, 1972 |
| DATE OF LAST WITHIN GRADE INCREASE: | None in Grade 12 |
| PREVIOUS RECOGNITION: | Certificate of Merit - 1960 |
| SUGGESTED CITATION: | For Meritorious Service in accepting responsibilities and duties highly in excess of those normally expected and for carrying out those duties with exceptional success reflecting credit to both APHIS and the Department of Agriculture. |
| JUSTIFICATION: | Attached |

Milton L. Goodman
Director
Compliance Staff

## JUS. .ATION

Mr. Sloane is a GS-12, Compliance Specialist assigned to the Analysis Group, Compliance Staff, Washington, D. C. His assignment began in November 1972.

The Analysis Group, Compliance Staff, at the Washington headquarters office is responsible for the review, analysis, disposition, security and filing of various reports and documents prepared by the Staff's compliance officers, the Office of the Inspector General, the Office of the General Counsel, the General Accounting Office, the Operations Review Staff, meat and poultry inspectors and others. Many of the reports are of a confidential nature. A large number of the reports are complex in composition and concern irregularities and violations of the Federal Meat Inspection Act, the Poultry Products Inspection Act and related laws and regulations. Most of the reports are of a regulatory nature and are prepared for law enforcement purposes. An intelligence card file system is maintained on about eight thousand alleged violators and those convicted of violations. Mr. Sloane has demonstrated an outstanding ability and accuracy in working with these records and reports and preparing various formats for use in the preparation of more than one hundred different kinds of warning letters.

Mr. Sloane reviews, analyzes and further processes case reports submitted from about 60 field compliance officers. He also works with reports prepared by the Office of the Inspector General and when warranted prepares material for the Office of the General Counsel recommending prosecution of alleged violators. He provides technical information to the Office of the General Counsel and others as it relates to program policies, regulations and meat and poultry laws. In addition, to his regular duties during the past 3 months he has taken additional work, some of which was formerly handled by an employee now retired. During the past 3 months Mr. Sloane has also taken extra duties of reviewing and preparing reports based on the findings of the Inplant Compliance Group as they conduct nationwide reviews of Federal plants. He prepares and maintains logs for ready reference and informational purposes. The quantity and quality of Mr. Sloane's work is outstanding and the accuracy is such that little supervision is needed thereby giving his supervisor more time for technical and administrative matters.

## SUMMARY

Mr. Sloane's willingness to accept and carry out responsibilities far in excess of that normally accepted has contributed greatly to the effectiveness of the Compliance Staff and the meat and poultry inspection and compliance program of APHIS, USDA. It is clearly demonstrated that he conscientiously studies the requirements of the applicable laws, regulations and instructions related to the meat inspection and enforcement program. His commendable performance reflects credit on both the Animal and Plant Health Inspection Service and the United States Department of Agriculture and is fully deserving of special recognition. It is believed his future assignments will be performed in the same effective and efficient manner.

(1) NAME OF AGENCY Field Operations, Program Services Staff, Meat and Poultry Inspection Program, APHIS, USDA

SHEET 1 OF 1

(2) TYPE OF AWARD: ☒ INDIVIDUAL ☐ JOINT ☐ GROUP OR WORKING UNIT

(3) AWARD TO BE GIVEN TO *(If unit award, attach additional Forms AD-287-2 (Net Lists), as needed, and include basis for allocation of shares)*

| A. NAME OF EMPLOYEE(S) AND UNIT (IF GROUP AWARD) | B. SOCIAL SECURITY & CHECK CHARACTER NUMBER | C. GRADE | D. POSITION, DIVISION, AND LOCATION | E. AMOUNT |
|---|---|---|---|---|
| William C. Sloane | 026-12-0420 | GS-12 | Compliance Specialist<br>Field Operations, MPI,<br>Compliance Staff,<br>Washington, D. C. | $300.00 |

(4) TYPE OF CONTRIBUTION: ☐ SUGGESTION ☒ PERFORMANCE ☐ SPECIAL ACT OR SERVICE ☐ OUTSIDE JOB RESPONSIBILITY ☐ WITHIN JOB RESPONSIBILITY BUT EXCEEDS NORMAL REQUIREMENTS

(5) IF A SUGGESTION, SHOW DATES (A) SUBMITTED, (B) ADOPTED

6. IF PERFORMANCE OR SPECIAL ACT, SHOW PERIOD COVERED November 24, 1972 to the Present

(7) SHOW DATES AND AMOUNTS FOR PAST 3 YEARS OF CASH AWARDS AND QUALITY INCREASES

(8) BRIEF DESCRIPTION OF CONTRIBUTION

For continuing excellence in the performance of assigned duties contributing to the efficiency and effectiveness of the Compliance Staff.

(9) AMOUNT OF AWARD BASED ON: ☐ TANGIBLE SAVINGS ☐ INTANGIBLE BENEFITS ☒ OTHER

10. TOTAL SAVINGS FIRST YEAR $

(11) APPLICATION OF SAVINGS: ☒ APPROPRIATION ☐ INCREASED OUTPUT ☐ TOWARD OTHER ACTIVITIES

(12) EXPLAIN METHOD OF COMPUTING SAVINGS

(13) INTANGIBLE BENEFITS *(Explain basis of evaluation, i.e., Degree of benefit and extent of application)*

(14) MAIL CHECK TO Mrs. Lynn Black, Personnel Asst., Room 4320-South, Program Services Staff Field Operations, MPI, APHIS, U.S.D.A., 14th & Independence Ave, SW, Wash., D.C. 20250

(15) ☒ FUNDS ARE AVAILABLE

(16) ACCOUNTING DISTRIBUTION CODE 402 5311 33001

| | | | |
|---|---|---|---|
| (17) RECOMMENDED BY (Signature) | TITLE<br>Executive Officer<br>Field Operations | DATE | TOTAL RECOMMENDED<br>$ 300.00 |
| (18) RECOMMENDED BY (Signature) | TITLE | DATE | |
| (19) APPROVED BY (Signature) | TITLE<br>Deputy Administrator<br>Field Operations | DATE | TOTAL APPROVED<br>$ 300.00 |

Form AD-287-2 (Rev. 2-66)

## Nomination For Quality Salary Increase

| | |
|---|---|
| Name | William C. Sloane |
| Division | Compliance Staff, MPIP |
| Designation, Grade & Salary | GS-11(4) Compliance Officer<br>$14,641 |
| Period of Performance | December, 1968 to present |
| Date of Grade Promotion | April 6, 1969 |
| Date of Within-Grade Increase | April 4, 1972 |
| Previous Recognition | Certificate of Merit<br>USDA Poultry Division<br>November, 1963 |
| Suggested Citation | For exceptional and meritorious service in the performance of duties substantially exceeding the requirements of his position |
| Justification | Attached |

Director
Compliance Staff, MPIP

# CERTIFICATION AND CONCURRENCE

## Quality Salary Increase

For

William C. Sloane

I hereby certify that the performance of the employee named above for the period December 1968 through June 30, 1972 has substantially exceeded the requirements of the position; and, on the basis of past performance, it is expected that his high-quality performance will continue in the future.

APPROVAL:

Staff Assistant

CONCURRENCE:

Assistant to the Director

Director

## JUSTIFICATION

Mr. William C. Sloane is a GS-11, Staff Assistant to the Officer in Charge of a Field Office. In Compliance and Evaluation responsibilities, a Staff Assistant is assigned reviews within a specified geographic location, and is expected to apply specialized knowledge, skills and judgment. Mr. Sloane's Federal career started in September, 1954 as a Poultry Grader (NACC) and in August, 1958, converted to a Poultry Inspector, GS-5. In December, 1968, he became a GS-9, Compliance Officer in the Compliance and Evaluation Staff and was promoted to a GS-11, Compliance Officer, in April, 1969, and is presently serving in this capacity.

As a Compliance Officer, Mr. Sloane is responsible for reviews of unusual magnitude, difficulty and complexity. In this capacity, he has shown exceptional aptitude when advising and directing subordinates concerning action to be taken in connection with certain adverse conditions. Because of the type of assignments, a great deal of the time he is not in contact with his immediate supervisors. As a result, Mr. Sloane is expected to supervise and make final determinations on his own initiative. This responsibility is far above normal expectancies of a GS-11. However, in all circumstances and under extremely difficult conditions, he has proven his ability to perform accordingly.

Compliance Staff responsibilities are much like acting the part of a detective, FBI agent, police, etc. A Compliance Officer is expected to be tactful and discreet in uncovering needed information. Mr. Sloane has conscientiously studied, mastered, and applied all applicable laws and regulations with respect to his assigned responsibilities. He has been instrumental in uncovering unlawful and undesirable actions on the part of the industry.

Being assigned to the Philadelphia Area is not an easy task. This is an extremely busy area and is composed of may problems. This particular area is largely engaged in both red meat and poultry products. A Compliance Officer must understand and enforce all requirements of the Poultry Products Inspection Act and the Federal Meat Inspection Act in order to maintain maximum compliance. Not only has Mr. Sloane been overburdened with the Philadelphia problems, he quite often encounters international problems, in addition to frequently being called upon to fill in as Acting Officer in Charge. However, because of his devotion to duty, and loyalty, he has effectively and efficiently assumed responsibility for offering a mutually agreeable solution. Because he is capable of operating on his own initiative, seldom, if ever, has Mr. Sloane found it necessary to rely on supervisory decisions.

SUMMARY

Mr. Sloane's performance demonstrates that he carries out his Consumer Protection duties far in excess of that normally expected. Mr. Sloane's productivity is rated amont the highest in the nation. His reports of apparent violations are well prepared and well documented. While on detail to other agency projects and assisting State Compliance programs, Mr. Sloane's performance has been commendable and only praiseworthy reports have been received.

Without a doubt, this demonstrates his unexcelled enthusiasm and dedication in carrying out the primary responsibility of the Compliance Staff, MPIP, APHIS, USDA, which is Consumer Protection.

John F. Gould

John F. Gould, Officer in
Charge, Eastern Area

Meeting 5/29/81

Cost to operate Lawrence Ks. PRB

1981

| | |
|---|---|
| Salary | 884,000 |
| travel | 265.000 |
| miscellaneous | 75.000 |
| | 1,224,000 |

MPI 27 Area Offices: cost: 5,500,000

Chief comments: why they wish to do away with this group. "can not understand" for the small amount it cost to operate. (Not a place to come to save money)

Uso. Chief: Back off for now on assigning category 1 & 2's, and if there are only a few ~~cat~~ significant three finding — assign 4 category

Chief "get out and sell program. spend more time with plant management.

W.CS

## MEMORANDUM

**To:** Donald Dijulio, Office of Special Counsel

**From:** Michelle Sullivan, Government Accountability Project

**Date:** August 24, 1985

**Re:** Draft statement based on interview with Wilbur Stuber concerning the July 26, 1985 USDA Report on Dr. Telleen's charges.

---

On August 24, I interviewed Mr. Wilbur Stuber and prepared the draft statement below, whose accuracy he has confirmed verbatim.

Wilbur Stuber

My name is Wilbur Stuber. I started working for the USDA in 1950 as a meat inspector. I did this for 10 years in San Francisco. I worked as a Meat Laws Investigator, this is similar to a Compliance Officer, in San Francisco for five years. Then we merged with poultry and formed a Compliance staff in 1966. From 1966 through 1969 I worked as a Compliance Officer in San Francisco. In 1969 I was promoted to a GS-12 and was transferred to Washington. I then reviewed the Compliance Reports that were submitted from the field to the Compliance Staff.

I did this until 1972 when I rejoined the review staff as a reviewer. In 1974 I went to Lawrence, Kansas. ~~In 1970 I also~~ and ~~worked~~ as a reviewer on the Review and Evaulation staff, a position which I held for five years before retiring in January 1979.

From 1974 through 1979 I became acquainted with Dr. Telleen. In my opinion, Dr. Telleen was a truthful, sincere honest man. He was an excellent government worker with an outstanding reputation. We worked in the same office. There were 14

Wilbur Stuber

Reviewers at the time. While I did not personally accompany Dr. Telleen on reviews, I was familiar with his work from reading his reports, comments from his supervisors, ~~and/or discussions with those who had traveled with him~~.

concerning the issues raised by Dr. Telleen:

(1) While I personally was not told to avoid reporting contaminated meat, I did hear other revieweres talking about this. Specifically, I remember Bill Sloane talking about this occurring later, after I left. He stopped by my house before he retired and he told me about this. He was upset about the inaccuracies and felt it was wrong.

(2) This issue was brought up after I left.

(3) When Dr. Matthias was the Chief of the Review Branch, there were no problems with reports being changed. When Dr. Harmon took over, I know that some Reviewers were asked to change their reports. I personally was asked to change my reports several times. ~~I informed the Office of Inspector General of this situation~~. Generally, Dr. Harmon or his assistant Michael would ask me to change significant #1 findings, to upgrade them. It amounted to re-wording the reports to reflect a lesser degree of contamination. They wanted to change substantial portions of the reports. I believe that the proposed changes were improper. I felt it was improper for someone who did not have first-hand knowledge to change, or to request a change of a reviewer's reports. I told all of this to the Inspector General when the IG was investigating Dr. Telleen's charges recently.

Bach when the attempted changes occurred, I had told Dr. Harmon that I saw the plants, I was there and if he wanted to change the reports he could sign the reports.

Another instance that I specifically remember occurred when I reviewed a slaughterhouse and noted in a report that the plant was not sterilizing the dehorning machine. According to the United States Department of Agriculture (USDA), Food and Safety Inspection Service (FSIS) regulations these machines must be sterilized after every cattlehead. I gave this plant a significant #1 category. Dr. Harmon wanted to talk to me about this report. He questioned whether this was a serious offense. I told him it was against the regulations. In my professional opinion it was serious. I did not change the report. I do know that Dr. Harmon wanted me to change it. Dr. Harmon could have changed it after I signed the report.

(4) When I was employed by the USDA, it was detailed in the regulations and always taught that trimming was the only effective way to remove contamination. While I was in the USDA service washing was not allowed. I was taught that washing imbedded the contamination into the edible product. I do not believe that washing of contaminated food product should be allowed.

I felt that the training I received at the Lawrence office was very good and was beneficial to the Program Review Officers in performing their dutues. This was true until 1977 while James Matthias was there. After 1977 I believe that the training and support given to the Program Review Officers changed for the worse.

The Office of Inspector General agent Gerald O'Brien did not give me a copy of my statement. I could have possibly misread the statement before I signed it but I do not think that I would have contradicted myself as is evidenced by the contradictory statements attributed to me on the first and third pages. The portions of the O.I.G. report that I do not believe I said follow:

> Insidious contamination has always been reported by me~~. I do not believe any reviewer received such instructions~~. [Page three, first paragraph.]

* * * *

> I felt the training I received at the Lawrence office was very good, and help the PRO in performing his duties." [Page three, third paragraph.]

I would not have made this statement. ~~I am not accusing the O.I.G. agent of falsifying this statement, but I believe this statement on the third page was added after I signed the report~~ I was never given a copy of the report by the O.I.G. agent. The O.I.G. agent read me the four issues raised by Dr. Telleen. I was not actually shown Dr. Telleen's specific points on these issues.

Subscribed and sworn before me this September 5, 1985

Janet A. Barrett

Notary Public

My commission expires 8/30/88

Exhibit 7

## AFFIDAVIT

My name is Michelle Sullivan. I am an investigator with the Government Accountability Project. On August 24, 1985, I interviewed a witness who wishes to remain confidential. The witness was one of those cited by the Inspector General as nonsupportive of Dr. Telleen. The witness worked on the Review Team with Dr. Telleen for many years and has a lot of respect for him. The witness believes that Dr. Telleen is knowledgeable, has a lot of integrity and is a good professional employee. He believes that Telleen is correct in many of the issues that he has raised and thinks very highly of him.

The witness complained that the O.I.G. agent, John Linko, only asked questions about the period of time from 1977 through 1979. During that time frame, things went pretty smoothly. After this time frame, the situation was totally differnt. Linko did not ask him questions about the "relevant" time frame, when the problems that Telleen has challenged arose.

Finally, the witness felt pressured by the O.I.G. agents to talk with them and to sign the interview with John Linko.

I have read the above one-page statement and it is true and accurate to the best of my knowledge.

Michelle Sullivan

Michelle Sullivan

Notary:

Subscribed and sworn to
before me this 3rd day
of September, 1985.

NOTARY PUBLIC
My Commission expires June 14, 1990

# AFFIDAVIT

My name is Michelle Sullivan. I am an investigator with the Government Accountability Project. On August 31, 1985, I interviewed a witness who wishes to remain condidential. The witness was one of those cited by the Inspector General as nonsupportive of Dr. Telleen. The witness worked on the Review Team with Dr. Telleen for many years. The witness was impressed by Dr. Telleen's sincerity. The witness stated that Dr. Telleen always demonstrated his professionalism. The witness remembers that Dr. Telleen was aware of and concerned about the potential of salmonella contamination. Dr. Telleen frequently discussed this at our meetings. The witness remarked that Dr. Telleen has a terrific memory. The witness made the additional comments concerning Dr. Telleen: he is a very cordial man, he impressed me as being dedicated to doing what was right. I believe that he was competent as a Review Team Member. I do think that he had trouble molding into the new policies initiated by the USDA around 1981.

Dr. Bartlett would blacklist anyone who was friendly towards Dr. Telleen. Dr. Bartlett did not appreciate individuals who showed a interest or concern with the issues that Dr. Telleen was talking about. The witness felt frustrated by this situation in Lawrence, Kansas.

The witness stated that he had personally had his Review reports changed by the USDA management. The changes that were made were made without consulting him or informing him of the situation. The witness found out inadvertently that a substantial portion of his report/reports were changed.

The witness stated that he felt that the USDA had railroaded Dr. Telleen out of his job and had Dr. Telleen transferred to Washington as a form of reprisal for blowing the whistle on the USDA. It is the witnesses opinion that Dr. Telleen has valid charges against the USDA.

The witness complained that the Office of Inspector General agent, John Linko asked him very leading questions during the interview. The witness was told that he only was to answer to the questions that he was asked. The witness was told that the O.I.G was not interested in hearing his comments on the issues presented by Dr. Telleen's charges.

John Linko read the witness the four issues raised by Dr. Telleen. At no time was the witness ever shown the issues. John Linko did not provide the witness with a copy of his statement made to the O.I.G

Finally, the witness felt pressured by the O.I.G. agents to talk with them and sign the interview with John Linko.

I have read the above two page statement and it is true and accurate to the best of my knowledge.

Michelle Sullivan

Michelle Sullivan

**Notary:**

Subscribed and sworn to
before me this 3rd day
of September, 1985.

NOTARY PUBLIC

My Commission expires June 14, 1990

March 30, 1987

Honorable Richard Lyng
Secretary of Agriculture
United States Department of Agriculture
Washington, D.C. 20250

Dear Secretary Lyng:

We are USDA inspectors and a former grader who are deeply concerned at the threat to public health and safety from a breakdown in the reliability of the agency's Food Safety and Inspection Service (FSIS) for poultry inspection. We are equally concerned with news media statements by FSIS Administrator Donald Houston that could deceive the public about the nature of the threat and how to solve the problem. We are pleased that Dr. Houston warned the public that nearly 40% of poultry carcasses are contaminated by salmonella. But Dr. Houston's proposed "solutions" could make the problem worse. We write to request your personal leadership in restoring integrity and effectiveness to the USDA program.

To know how to solve a problem, you have to understand its roots. We fear that the high levels of salmonella can be traced to a 1981 policy change that many of us soon experienced in the field. The change was described in the enclosed July 2, 1981 statement by Dr. Robert Bartlett to the Program Review Branch in Lawrence, Kansas. The PRB monitors the adequacy of the inspection program nationally. Dr. Bartlett had just returned from meeting with Dr. Houston and other top officials in Washington, D.C. Among his remarks to the reviewers, he stated,

> As we discussed on Monday, the political climate is such that the special interest groups supporting the meat and poultry industry have won and now have the ear of Washington. They 'paid their dues' and are now in the driver's seat. Dr. Houston did a magnificent job of salvaging - everyone has a job.... The consumer base has disintegrated. We must be versatile and adjust to this new challenge.

Secretary Lyng, we cannot adjust to a disintegrated consumer base. The duty to protect consumers' health and safety is our mission as an agency and as individual inspectors. Unless the law is changed we will not adjust to avoiding our legal duty, regardless of the politics.

Below are responses to specific statements from Dr. Houston, as reported in a February 18, 1987 Joplin Globe newspaper article.

1. The article began by citing the USDA estimate that nearly four out of every ten chickens sold to consumers are contaminated with salmonella. In our experience, that estimate is very conservative. At times the rate has gone up to 90-100%, due to all the manure and other contaminants that have become routine over the last ten years.

The fact is that salmonella contamination is at an all time high, and consumers deserve to know why our food is so much dirtier. The levels are a direct result of the reckless use of new technologies, such as eviscerating machines that rip open the intestines and spread manure and undigested feed throughout the carcass, or a washing process that ends by bathing the already-soiled birds in chill tanks so filthy that we refer to them as fecal soup. These new technologies dramatically increase contamination levels. The industry only can get away with this because the visible evidence of manure is rinsed to the point where the consumer cannot see the salmonella that is still there.

2. In the article's first direct quotation from Dr. Houston, he stated, "We cannot have a risk-free food supply, but, on the other hand, if we can improve it, we should do so." We are pleased that Dr. Houston favors improvements but disagree with his implied priorities. Doing better must be more than an afterthought. The levels of contamination are totally unacceptable and we must do better. As Dr. Houston stated himself later in the article, "Eighty-five percent of the food poisoning cases are avoidable." Whenever possible, we believe they should be avoided by the USDA inspection program before receiving the USDA seal of approval. That is not happening.

3. A recent speech by Dr. Houston to the poultry industry was quoted in the article: "We are nearing a credibility gulch about processing and inspection that, however unfounded in fact, could directly affect the public's confidence in their poultry supply." Why did Dr. Houston infer that the allegations, made in large part by inspectors and veterinarians in the department he oversees, were "unfounded"? Perhaps he needs to spend less time talking to the industry and more time listening to his inspectors and vets in the field.

4. Dr. Houston's most prominent advice was for consumers to wash their hands after handling raw chicken, and to cook it well. We agree with the advice, in light of what USDA is letting go out to the groceries. But we disagree with any attempts to pass the buck to consumers on the new health hazards. The blame seems to be placed more and more on the housewife. Perhaps she should use surgical gloves and scrub up before preparing dinner. There should be no mistake: the new levels of food poisoning are not the fault of unsanitary consumer practices. Humans have known to cook their food since the Stone Age.

It would be misleading and dangerous to adopt a "Let the buyer beware" policy for our food supply. Consumers should understand that Dr. Houston is not truly warning us to wash and thoroughly cook the chickens we eat; he's talking about the chicken excrement we eat. The solution should not be for consumers to wash their hands; it's to stop the fecal contamination from being on USDA approved food in the first place.

5. Dr. Houston stated that spot checking could do as well as traditional inspection. What does he mean? The current approaches already are spot checks. The programs, known as New Efficient Line Speeds (NELS) and Streamlined Inspection System (SIS) are spot checks in two ways. First, we are only allowed to look at a few spots on the birds. For example, in SIS we cannot even tilt the bird to look at the bottom, the back or the sides of the outside.

Second, some of the most important inspection stages are only spot checks. For example, in the post chill test under SIS we only look at 20 chickens per shift out of 60-70,000. That's just a tiny fraction of one percent. In the pre-chill tests we look at 40 chickens out of around the same total. Routinely we find defects on 60% or more of the birds in the sample, sometimes up to 100%. But since it is nearly impossible to expand the sample size under the USDA standards, the other 99+% go through without further delay.

We are also down to spot checking on sanitation now. If spot checking is as good as Dr. Houston believes, maybe it should be applied to mass-produced parts for aircraft and space vehicles.

6. Dr. Houston left reporters with the impression that traditional inspections mainly focus on broken wings, bruises and other blemishes on the chicken carcass. Somehow there was a failure to communicate. Those are the duties of a USDA grader, not an inspector. As head of the Food Safety and Inspection Service, he should be able to describe the difference to the public. He also should know that under the SIS program any cosmetic inspection functions already have been turned over to the companies.

We do look for the serious problems of diseased poultry, and the inspection service condemns tons of birds annually that are diseased or dead upon arrival for slaughter. We are missing far too many of the serious problems, however, and we are seeing seriously increased levels of diseases like leukosis among birds on the line. One reason is that it is impossible to keep up with the new line speeds. The SIS program allows 1.7 seconds per bird. NELS allows slightly less than two seconds per carcass.

We especially resent any statements from FSIS management that the inspectors are missing the most serious problems. It is FSIS management that has prevented us from stopping the most serious safety problems, by relaxing the disease and sanitation standards and by consistently overruling us when the companies complain.

Cancerous tumors, air sacculitus and septic flaps that for decades would have rendered birds unfit for human consumption now are all right, according to FSIS management. We believe that FSIS management is substituting cosmetic standards for a public health standard. This allows companies to salvage the parts that look all right on otherwise unwholesome poultry, sometimes in the advanced stages of disease.

Secretary Lyng, increased food contamination is not due to ignorant housewives. The problem is due to a failure of leadership by FSIS management. Any real solution will restore USDA's integrity and leadership, not merely teach consumers how to fill in for USDA's failure to do its job.

Thank you for considering our concerns.

Sincerely,

21605

Randal Cole
Robert C. Bartley
John T. Ray
Robert W. Wentworth
Jimmy Adams

## Signature Page

The signatures appearing on this sheet concur with the letter to The Honorable Richard [illegible], dated March 1937 concerning boiler inspection.

Ester M Philpott
George A. Croft
Ethel Reed

Program Review Branch
Staff Meeting Notes
2nd Quarterly Staff Meeting
June 29, 1981

Present:

Dr. Bartlett
Mr. Blank
Mr. Bari
Mr. Crawford
Dr. Doudna
Mr. Graham
Dr. Hartley
Dr. Jolley
Dr. McLaury
Dr. Munson

Dr. Randgaard
Mr. Rask
Mr. Sloane
Dr. Thies
Mr. Traylor
Mr. Walker

Mrs. Emerson
Mrs. Kelly
Mrs. May
Mrs. Phelps

Not present:

Dr. Blackburn
Mr. Lawrence
Mr. Owens
Mr. Phillips
Dr. Telleen

Dr. Bartlett: As you know, this meeting has been 'on again - off again'. I had hoped that we would have some meaningful information by this time and that we would have Mr. Gonter out here to talk to us. However, the picture changed so rapidly that he found it impossible to attend. Mr. Gonter wanted to make a final visit here and to personally thank all of us and wish us well. He has been a great supporter of this group and a man of integrity. The political climate being what it is, we are in a valley right now. Mr. Gonter is trying to improve the proposed realignment of Field Compliance. Our group will no longer function under Mr. Gonter. But Field Compliance, he feels, is a program of integrity and viability and should be kept under Compliance.

On Friday, Lou Gast called and asked that I come to Washington to discuss our present and future position. When I return from Washington on Thursday we should have some real information and I would appreciate everyone being here on that day.

Brenda Janeway, our student summer employee (former stay-in-school) is back with us and we are very happy to have her excellent help through the summer.

It is with mixed feelings that I announce that Dr. Carl Jolley has accepted the job as Assistant Area Supervisor at Athens, Georgia. Dr. Jolley has been an outstanding reviewer and we shall all miss him very much.

Representatives to the NAFV and the ATSP are Dr. Thies and Mr. Crawford respectively.

According to the directions for the evaluations of the Merit Pay System, a minimum of two consultations are required to meet the requirements of these regulations, and we are down to the wire. Jim Blank and I must meet with each individual under the Merit Pay system so that we may discuss any problems and air any grievances. Final evaluation must be accomplished by September 15th, so we must accomplish this preliminary interview this week, or the next, at the latest. Please arrange your interviews during that time.

Dr. Harmon has been selected to sit in on a foreign programs review meeting. It was his thought that he could recommend the same kind of review group as we have here in Lawrence. I suggested that he might recommend PRB. Dr. Harmon also stated that he thinks the Bentsen Bill, which is before Congress, may pass. This is the bill which would allow interstate shipment of State inspected product.

We have not planned a correlation session for this staff meeting because we do not know how or where we will be going under this new administration. However, Jim Blank has prepared some transparencies that illustrate errors reviewers are having problems with on reports. These transparencies may be helpful in illustrating these errors and preventing future mistakes.

At this point I want to stress to all reviewers the importance of meeting with management, or a representative of management prior to, during, and after reviewing a plant. It is absolutely essential that this be done and we cannot emphasize the importance of this too strongly.

The Do's and Don'ts of meeting with plant management (in your PRB Manual) clearly state the guidelines for the above. There are three reasons for meeting with management.

1. It sets the scene for a compatible review. It relieves us from having to defend the findings in a review. When you meet initially with management, write that person's name down in your rough notes. If the plant is operating, some representative of management should be there.

2. When we are called on to go and talk to Regional and Area supervisors, we need to be able to tell them that we are definitely 100% doing this.

3. We also have to answer a lot of questions from industry. As an example - Dr. Houston had a letter from a Mrs. Joan Dannelley, who represents the American Association of Meat Processors. I would be happy for any or all of you to read Mrs. Dannelley's letter and our proposed reply to her for Dr. Houston's signature. This will give you some idea of the problems we must deal with.

Mr. Phillips: I found several inspectors who resent plant management being along on our reviews.

Dr. Bartlett: That is too bad.

Dr. Doudna: My feeling is that the discussion with plant management should be held regardless of whether plant management accompanies the reviewer.

Mr. Blank: I think Joe's (Doudna) point is well taken.

Dr. Bartlett: I do not want to make any changes until we find out what Washington plans to do with this group. We have no margin for error any more. Prior to the inception of reporting change, we had several layers of administrative people, i.e., Mr. Gould, Mr. Gonter, Mr. Gast, etc. Now that we are reporting directly to the Administrative office, we have no room for mistakes.

Dr. Bartlett: Remember that the policies, philosophies, and criteria that PRB operates under are subject to change and we need your input to make our criteria the very best possible. When there is no doubt in your mind that your report will be a category 3, you may announce this to plant management. Category 1 and 2 plants may be announced the following day after you have discussed your report with either Jim Blank or me.

If I am asked for some input on some constructive changes in the manner in which we operate in an effort to slant our reviews away from opposing industry:

1. We are probably going to have to get away from category numbers on reviews. Therefore, we must have some 'inhouse' method of categorizing plants for the purpose of scheduling followup reviews. It is industry's (and the new administration's) intent to get PRB away from 'judging' plants.
2. Evaluation and Enforcement Division is disbanded. Our reporting line is more direct. There are positive and negative results in this approach. Under EED, there were too many interruptions on 'up the line'; however, we have lost our screen, which was valuable.
3. One possibility of a new approach is using the Circuit as our core of assessing the MPI program. Doing an overview of a total Circuit and assessing the effectiveness of a Circuit, and ultimately the entire Area, may be our future tack.

   We would use our same approach but keep in mind that our goal is an overview of MPIP. We would concentrate on reviewing a Circuit in a given time frame. Perhaps a narrative summary of how a Circuit is operating would be good.

Mr. Traylor: In my experience it seems to be mutually beneficial when a Circuit Supervisor accompanies me on my reviews.

Dr. Doudna: I can foresee a lot of problems between ourselves and Circuit Supervisors - we are evaluating him under this concept.

Mr. Crawford: I feel we are weak in 'procedures' reporting. Also, there is no way to totally disassociate the category from a plant 'grade'.

Dr. Bartlett: The two directives governing our policies, 8030.1 and 9020.1 are being revised.

TQC plants - it was Mr. Gonter's intent that Jim Crawford or Jim Blank go with each reviewer on a TQC plant review. It is my feeling that it is too expensive to do this. However, we do need to look at TQC plant plans and see where their critical inspection efforts are.

State plants - we need to know whether we will continue in the State plant inspection program. We need this additional workload and I feel that we have achieved some good results from our efforts.

Dr. Bartlett: What to do in case of a tornado - please read the information posted on the bulletin board concerning tornadoes - and fires! It may save your life!

If you have a problem of Circuit Supervisors not accompanying you on category 3 and 4 plant reviews, it is perfectly all right for you to request the Area office to have an inspector in the plant the next day.

Note: the internal temperature of 170° is necessary to control trichinae in microwave cooking of pork.

Dr. Jolley: I have mixed emotions in accepting this new assignment in Georgia. This is a good job and the job I am going to will be a lot more difficult. I have enjoyed my association with all of you and regret leaving on that account.

7/2/81 All reviewers and support staff present with the exception of Dr. Blackburn

Dr. Bartlett: Tuesday morning, June 30th, I had a conference with Dr. Houston, Lou Gast and Carol Seymour. Dr. Houston has appointed Ms. Seymour the Acting Director of the Review and Evaluation Staff. This is the staff under which we will operate and which will be directly responsible to the Administrator. The Planning and Analysis Division of which Carol Seymour was Director, and PRB are now combined. Under Ms. Seymour will be Jerold Gettleman and William Holcombe. Ms. Seymour is highly intelligent, motivated, and successful. She wants us to get a job done here in Lawrence. Dr. Houston wants us to have job security, and he wants a viable program here in Lawrence.

As we discussed on Monday, the political climate is such that special interest groups supporting the meat and poultry industry have won and now have the ear of Washington. They 'paid their dues' and are now in the driver's seat. Dr. Houston did a magnificent job of salvaging - everyone has a job. Changes were completed by realignment.

The directness of our reporting lines to the Administrator will mean that we will have greater input and exposure, but also a greater margin for error.

We probably have the biggest challenge in our careers. We have been eight years doing what has become a repetitious thing; review a plant, apply criteria, and make a report. That job is over. It was well done and everybody agrees it was well done. But that kind of review is no longer needed. The word "compliance" is no longer part of our identity.

The job at hand - to give Dr. Houston a program that will provide information as to how FSIS is functioning. The consumer advocate base has disintegrated. We must be versatile and adjust to this new challenge. I told Carol Seymour we could meet the new challenge. With the world of ability and wealth of know-how in this group - there is no limit to our capabilities, and we are going to start drawing from that talent right now.

Monday morning, everyone will be expected to submit a memo stating some kind of an idea for a special project for this group. I would like to get at least four new ideas from the total submitted that would be completely innovative.

Thenceforth, any communication that we have will go directly to Carol Seymour - Review and Evaluation Staff. For now, we will go ahead with our regular quarterly reviews. It is anticipated that our reviews will no longer use category numbers, and there will be no followup reviews as we know them now.

Carol wanted to come to Lawrence and meet with all of you. Lou Gast, too. Tentatively, both carol and Lou Gast plan to come to Lawrence the first week in August. I would request that all of you plan to be here at that time.

Dr. Munson: What do they want? What 'special projects' do they have in mind?

Dr. Bartlett: The projects are those that would be of some value to MPI Field Operations. We will ask ourselves; (1) why would it be good to do this special project? (2) what positive result will there be? and (3) why will it be useful to the Administrator?

We must fit to the times, and times are changing. As Dr. Houston stated - anything that has been done for the last 20 5 years probably is not being done right. We need to view this thing as though a highly intellectual, able, well-trained person came from Mars and said, "How can we examine the MPIP with a new, fresh approach?" We need new, innovative, indepth productive ideas of ways to review the program.

Our 8020.1 Directive - Plants Requiring Additional Inspection Efforts, and our PRB operation Directive 8030.1 are both being revised.

Carol Seymour has prepared a paper on her ideas for the FSIS central audit function. A copy of this paper has been prepared for each of you. It is an excellent paper, and from it we may glean many helpful insights. Please study it carefully.

Dr. Houston wants to continue to observe the sanitation in plants. That is the only 'given' that we have.

Let me give you an idea that we might work on if we don't use category numbers any longer. If we have significant deficiencies in a plant and they have been noted on a review, keeping in mind the intent of the review (overall adequacy), we would title the form 'inspection location' rather than name and address of the establishment.

We would also transform significance findings to a word description, perhaps using the term 'adequate', or 'inadequate' to define inspectional control.

I also suggested that we stop sending the plant a copy of the review. If we are irritating the plant management, then why send them a report of the findings pertaining to inspection failure. The emphasis of our reviews would be shifted from the plant to inspection.

As far as staffing is concerned, we will need at least as many people as we have now, i.e., there will be no reduction in force.

I am doing everything I can to see that the location of PRB remains in Lawrence, Kansas. I am on record on that.

Support Staff: I feel that this part of our staff is undergraded. We are taking steps to correct this situation. Mrs. Emerson's job has already been upgraded to a GS-4 and we will be continuing to upgrade the other positions.

We have a fine Esprit de Corps in this group, plus a good, 'family' feeling among us. I view this new approach as a real challenge and as a positive change.

For now - there will be no trip cancellations. You will proceed with your work as scheduled for the time being. I will expect some input of ideas from you by Monday, July 7th. If you are leaving on a trip, put some of your thoughts in writing or phone in and dictate your ideas to one of the support staff.

Some of the staff working with Carol Seymour in Washington are:

John Korona
Patricia Haynes
John O'Connell
Linda Carlson
Nancy Goodwin
Charlene Hager
Mary Smutnick
Shirley Sondheimer
Kelly White
Diane Brooks
Janet Fahar
Cheryl Davis
Eugene Lyons
Rebecca Sorg
Jerold Gettleman
William Holcombe

Merit Pay: Everybody will receive as closely as possible the amount he or she would receive had the merit pay pool not been put into effect. We will be writing new standards for evaluation purposes.

This job here at PRB will no longer be 'easy', and I, for one, am glad of it.

Robert E. Bartlett

Robert E. Bartlett, Chief
Program Review Branch
Review and Evaluation Staff

STAFF MEETING - June 30, 1981

- The assignment sheets that are given to reviewers at the beginning of each quarter are preliminary copies of the assignments and are for your information only.

  Because they are subject to change, these preliminary copies are not to be used for making itineraries.

  When you are ready to prepare a current trip, ask Mary Ellen May for an update of the assignment sheet and followup reviews. Itineraries will be made from this source only.

- Please transfer all county names from the top of all old reviews to the current report.
- There are some TSI plants assigned this quarter, and more TSI plants will be assigned each quarter from now on until all TSI's have been reassigned.
- Activity reports - please be punctual in turning them in to Edie.
- Leave - Report all planned leave on an SF-171. Report leave taken on a daily basis to Edie. Prior permission to take any leave must be granted by Dr. Bartlett or Jim Blank.

  Turn out the lights in your station when you leave at night - if you are the last person in that area to leave.

Mary Ellen May
Program Services Assistant
Program Review Branch

[From the Philadelphia Inquirer, February 18, 1987]

## U.S. INSPECTORS FIND 37 PERCENT OF CHICKENS ARE CONTAMINATED WITH SALMONELLA

(By Don Kendall)

WASHINGTON—Nearly four out of every 10 chickens sold to consumers are contaminated by salmonella, invisible micro-organisms that caused flu-like symptoms among many thousands of Americans each year, according to an Agriculture Department official.

"We cannot have a risk-free food supply, but, on the other hand, if we can improve it, we should do so," said Donald L. Houston, head of the department's Food Safety and Inspection Service, the agency that oversees federal meat and poultry inspection.

The National Academy of Sciences plans to issue a report soon on the health-risk aspects of federal poultry inspection. In 1985 the academy sharply criticized the department's inspection programs for not taking advantage of advanced technologies that could detect risks including salmonella and chemical residues.

Salmonella, which can be killed by proper cooking, can cause salmonellosis, which is characterized by fever, diarrhea and vomiting within 12 hours to 36 hours after eating. The illness may last two to seven days and is sometimes fatal.

Houston recently told a poultry industry meeting that "a spate of articles in reputable newspapers and magazines—as well as internal critics—have also suggested that the inspection program is not adequately protecting consumers from the risks of salmonellosis and other food poisoning."

In short, he added, "we are nearing a credibility gulch about processing and inspection that, however unfounded in fact, could directly affect the public's confidence in their poultry supply."

Salmonella is a general name for about 2,000 closely related types of bacteria that develop in conducive surroundings, including the intestinal tracts of people and animals.

According to the federal Centers for Disease Control in Atlanta, 56,657 cases of salmonella food poisoning were reported in 1985, compared with 23,174 cases in 1976. Figures for 1986 were unavailable.

Houston said the actual number probably is much higher, projected at two million cases or more each year. And animal products—meat, poultry and dairy—are deeply involved, he said.

For poultry, Houston said, contamination has been detected in about 37 percent of the samples tested, "and we've got to turn that around." For pork, contamination has been detected in about 12 percent of test samples, and for beef about 5 percent, he said.

Chickens and their fecal matter are prime salmonella sources. In poultry processing plants where sanitation rules are not enforced rigidly, the salmonella contamination rate can soar. Salmonella on or inside the slaughtered birds then get into the consumer's kitchen.

He said consumer education was an important part of holding down the spread of salmonella and other microbiological threats to human health. Not only can proper cooking kill the salmonella bacteria, but thorough washing of hands after handling uncooked meat can help prevent contamination, he said.

Houston said he hoped that the forthcoming report by the academy of sciences, a non-governmental advisory group with about 1,200 elected members, would bolster his agency in its push for legislative changes in the way poultry is inspected. For example, Houston and some others have maintained for years that there is no need to visually check every single bird that moves along the line at a slaughtering plant.

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[From Discover magazine, February 1987]

## IT MUST HAVE BEEN SOMETHING YOU ATE

(By Penny Ward Moser)

The force was with me. Or, rather, inside me. And it was trying to get out in a hurry. My intestines felt as if they were playing host to a Bears-Raiders game. I was sick.

It has happened to all of us. In a few hours we go from well to wretched—and retching. Most of the time we blame the flu, and we even make up strains to suit the occasion, like "the twenty-four-hour bug that's going around."

But influenza is getting a bad rap. Last year in the U.S. perhaps as many as 81 million times, what made us sick was something we ate. Roughly nine thousand people died of food poisoning or food-borne illness as government health officials call it.

My affliction was salmonellosis, so named because it was the result of my ingesting salmonella bacteria. The strain that got me was Salmonella enteritidis, from an antigenic group that includes the rare—at least in the U.S.—and deadly Salmonella typhi, the cause of typhoid fever. The primary symptoms of Salmonella enteritidis are a headache, followed by days of what doctors term "unrelenting diarrhea." The usual treatment is to tough it out. My week of toughing it out included a diet of soy milk, cornflakes, and rice selected from a list of foods my doctor recommended.

He also told me that each of us probably gets salmonella poisoning a hundred times during our lives. "Sometimes it makes us very sick and sometimes it doesn't," he said. "We usually pass it off as the flu, but flu is customarily respiratory—more coldlike achy. If diarrhea is the primary symptom, it was probably something you ate."

While I was recovering, I punched a request into my computer: search the Nexis data base for news references to food poisoning during the past two years. It hummed and hummed. Finally, it produced a list of more than 1,000 news articles. From these and other sources, I learned that food poisonings in America are increasing markedly.

The U.S. Centers for Disease Control (CDC) recognizes some 300 food-borne illnesses, from common salmonellosis to the rare tetraodon puffer fish poisoning. It's impossible to determine exactly how often people are laid low by these pathogens—the 81 million cited above is the roughest of estimates—because most victims never know what hit them. Even the infections of sufferers who seek medical attention are usually undiagnosed, because doctors allow the infections to run their course and seldom order tests to pinpoint the bacteria involved. A victim of food poisoning is likely to receive a specific diagnosis only if he becomes very, very sick, or gets sick at the same time and in the same way as a whole bunch of other people.

And the articles provided me with startling instances of food-borne illnesses:

In the spring of 1985 as many as 200,000 people in the Midwest got salmonellosis. Investigators believe the most likely source was a valve that allowed a small amount of raw milk to leak into pasteurized milk at a dairy outside Chicago.

In the summer of 1985 Listeria monocytogenes bacteria in soft cheese killed at least 80 Californians.

In August 1985 botulism in salt-preserved fish killed two elderly New Yorkers.

In April 1986 salmonella in gefilte fish made 56 people in suburban Washington, D.C. severely ill.

In May 1986, 20 people who had attended a buffet in New Jersey got salmonelliosis from eating stuffed pasta shells and lasagna. This led to a recall of 120 frozen pasta products in 47 states.

In July 1986, more than a hundred Chicago-area diners got sick from salmonella that health officials believe came from low-acid tomatoes that had been sliced by a carrier who had traces of his own feces on his hands.

In August 1986 typhoid fever made nine people desperately ill after they'd eaten shrimp salad prepared by a typhoid carrier at a Maryland restaurant.

In November 1986 five people died in a Connecticut nursing home from salmonella traced to pureed food.

In December 1986 Nabisco ordered a nationwide recall of millions of Baby Ruth candy bars after traces of Salmonella meleagridis were discovered in some lots.

My friends, like my computer screen, were also full of food-poisoning anecdotes. It was my own affliction, salmonellosis, that came up most frequently. This wasn't a coincidence. "Of all the food-borne pathogens we have to contend with in this country, salmonella is the one that's gaining on us fastest," says Robert Tauxe, an enteric disease epidemiologist and salmonella specialist at the CDC.

The Food and Drug Administration believes that in 1985 four million Americans had a member of the Salmonella family for dinner. Thirty-five thousand were hospitalized with salmonellosis, which killed more than 1,000 people and left 120,000 others with chronic crippling diseases like arthritis. Says Tauxe, "Salmonellosis was very rarely reported in the nineteen-forties. It picked up steam in the sixties. Today the numbers just keep going up." The reasons, he says, "are many and subtle. You could point to the way we raise our livestock, and the way we process and handle our food." As recently as 1975, only 23,448 cases were reported to the CDC. By last year that number had more than doubled. Those cases were just the tip of that possible four-million-case iceberg. "Whatever numbers you want to use," Tauxe says, "I can tell you that the salmonella problem is one of the great underreported diseases in the country today."

A salmonella infection is usually just an unpleasant bout of gastrointestinal distress. The exception is the strain that causes typhoid fever, which is in a class by itself. It becomes systemic, invading the blood stream and infecting many organs, where it triggers severe and sometimes fatal inflammations. Only about 500 cases are reported in the U.S. annually, and two-thirds of those are contracted abroad. Typhoid fever used to kill about one-third of its victims, and even with today's antibiotics, it still does in about one in ten. Non-typhoid salmonella is usually only a killer when it invades the blood stream and colonizes in the brain or other organs. The intestines try to keep this from happening: diarrhea, in fact, is an immune respose to ingested pathogenic bacteria. It flushes out the salmonellae that permeate the protective mucous coating and attach themselves to the intestinal walls.

But flushing the system of salmonellae may not end the illness. Says Doug Archer, director of the division of microbiology at the FDA, "Between two and three per cent of salmonellosis sufferers are going to find out weeks later that they have reactive arthritis, which may be contracted because a component of the bacterium somehow fools the immune systems of people who have a certain gene—HLA-B27. Ten per cent of the U.S. population have this gene." That means that if four million people had salmonellosis last year, 120,000 of them will develop chronic arthritis as a result.

A smaller number of salmonella victims—perhaps only one in ten thousand—experience septic arthritis, a painful condition in which the bacteria invade the joints. Still others may suffer post-infection Reiter's syndrome, characterized by inflammation of the urethra, eyes, and joints.

Although farmers and people who process food are well aware of the dangers of salmonella, they're sometimes helpless to prevent its spread. Tauxe and Mitchell Cohen, a CDC colleagues have reported that a growing number of antibiotic-resistant salmonellae are being passed from animals—which are fed antibiotics that eliminate sensitive strains and lead to the development of resistant ones—to man via food. As if all this weren't enough, sloppy housekeeping and food handling is abetting the increase in salmonella infections—especially in the home. Says Tauxe, "A lot of folks don't know how to cook any more."

"It's easy to blame restaurants," says U.S. Department of Agriculture food safety expert Georgia Stevens Neruda, a home economist. "But when it comes to food poisoning, we usually do ourselves in at home."

Despite its name, this thing that's waiting to ambush us in our kitchens has nothing to do with salmon. It was named for USDA microbiologist Daniel Salmon, who isolated it in 1885. Salmonella is a general term applied to a group of about 2,000 closely related bacteria. Each salmonella serotype—a subgroup sharing antigens—has its own name. The serotypes that most often made people sick in 1985 were S. typhimurium, which accounted for 49.7 per cent of reported cases, followed by S. enteritidis (ten per cent), S. heidelberg (nine per cent), S. newport (4.3 per cent), and S. hadar and S. agona (two per cent each). In the 25 years that the CDC has been keeping track of serotypes, it has isolated close to 500 kinds of salmonella in humans.

Some serotypes prefer different species of animals as hosts, but they're all spread in essentially the same manner. Since salmonella bacteria are shed alive and well in the feces of most animals, and since they're so tough they can withstand very hot and freezing weather, rain and drought, they're found wherever food animals live. The animals pick up the salmonellae from the soil or even from contaminated processed feed. Once consumed, the bacteria live in the animals' intestines, where, depending on their serotype and number, they may or may not make the host sick. Then, during slaughtering and processing, minute numbers of the salmonellae can lead to contamination of food products. That's why the bacteria are found on or in raw meats, poultry, eggs, milk, fish, and shellfish. They're also carried by pets, especially birds, fish, dogs, cats, and turtles. In fact, the CDC determined that 14 percent of all salmonellosis cases in 1971 had been caused by pet turtles, which is why little turtles aren't sold in five-and-ten cent stores any more.

Some serotypes are geographically specific—or were, until we started shipping them all over the global village. Because of this specificity, salmonella makes for "fascinating epidemiological studies," says Tauxe, who then cites two examples of microbial detective work at its best:

In the winter of 1973–74, a strain of Salmonella struck 80 people living in different areas of the country. The source was discovered to be foil-wrapped chocolate

Christmas balls. The chocolates were tracked to a Canadian processor, and the bacteria, S. eastbourne, were traced to the cocoa beans used in manufacturing the candy. The beans were believed to have come from Ghana, where S. eastbourne has been isolated, and the bacteria weren't in the beans, but on them. There's speculation that the beans had been contaminated by gull feces while sitting on a dock in Africa.

S. agona was almost unheard of in the U.S. until 1970, when it found its way to North America in Peruvian fishmeal. The fishmeal was fed to chickens, which were then eaten by humans. Today S. agona is the six most common pathogenic serotype in America.

Salmonella shouldn't be confused with the common food poisoning Staphylococcus aureus, sometimes nicknamed "Roto-Rooter disease." These bacteria produce a toxin to which the body responds almost immediately by ordering a total evacuation. This provokes violent spasms throughout the digestive tract, frequently causing vomiting and diarrhea simultaneously. However, it's rarely serious and the symptoms last only a few hours.

By contrast, salmonellosis symptoms, which include headache, rumblings in the bowels, diarrhea, and sometimes fever and vomiting, appear between six and 72 hours after the bacteria are ingested. That's why it's often tough to figure out what food did you eat, unless you're one of a group of sufferers who all ate the same thing. Even then, salmonella plays tricks. The bacteria can't get around very well on their own, but at room temperature they can double their population every twenty-five minutes. These two factors can make a salmonella infection in food very localized: all the partygoers who eat from the northwest corner of the scalloped-potato pan might be fine, while those who serve themselves from the southeast quadrant become sick. This also explains how it is that two people can eat the same thing at a restaurant, but only one gets sick.

The severity of salmonellosis is also directly related to dosage—i.e., a small amount of the bacteria will make you a little bit sick, while a whole lot will make you a whole lot sick. What constitutes a whole lot can vary from serotype to serotype. It can take a million of some kinds, but the potent S. ealing can make you sick if only a single bacterium makes its way down your throat.

Salmonellae find body temperature very comfortable, and if you've eaten food they like—say, a big turkey dinner and eggnog, which neutralize stomach aids—they survive more easily and travel to the intestines, multiplying as they go.

When a sufficient number of pathogenic bacteria reach the intestinal wall, the bowel's defense mechanism responds by manufacturing copious amounts of mucus, drawing water from the blood stream, and pushing everything out of the intestine quickly. By repeating this process frequently over as long a period as necessary, the body will excrete most of the bacteria. However, while the bacteria don't usually colonize in the body, about three per cent of salmonellosis sufferers become carriers, like the infamous Typhoid Mary, who was the direct cause of more than fifty cases of typhoid fever and three deaths while working as a cook in New York in the early 1900s.

Salmonella is transmitted from person to person only about ten per cent of the time—usually when a carrier's feces, not washed from his hands, contaminate food during preparation. Most often, the illness comes from food contaminated by animal feces—meat, eggs, and dairy products, for the most part. The bacteria have been cultivated from protein powders, peanut butter, chocolate, green beans, peppercorns, ground bettles (which were once used to make red food coloring), and even powdered snake sold in health food stores. Salmonella occurs in dairy products when raw milk is used, or when it's contaminated after pasteurization. This is probably what happened in the aforementioned Chicago outbreak: a leaky valve in the dairy's five miles of pipe let raw milk trickle into the bacteria-free pasteurized product.

My salmonella came from eggs. My doctor and I think I got it from an egg-salad sandwich I bought in a New York deli. The eggs, not the mayonnaise in the sald, would have carried the bacteria. When people get sick from eating food with mayonnaise in it, they tend to blame the mayo, but they shouldn't. This misconception is left over from the days of home-made mayonnaise and unpasteurized eggs. Today mayonnaise processors use liquid pasteurized eggs. According to Best Foods, the maker of Hellmann's mayonnaise, there has never been a case of food poisoning linked to modern commercial mayonnaise. "Not only do we use pasteurized eggs, but our mayonnaise has sufficient quantities of acid and salt to stop harmful bacteria right in its tracks," says Phil Wells, Best Foods' expert on microbes and mayo. "Mayonnaise is self-pasteurizing. In salads it retards rather than encourages bacterial growth." By and large, an egg becomes contaminated when a microbe from a dirty shell gets into it when it's cracked open.

In the U.S., turkey is the most common source of salmonella outbreaks from meat, followed by beef and chicken. (Samplings of turkey carcasses by the FDA also showed that half of them were infected with the diarrhea-inducing bacteria Campylobacter.) While the USDA says that as many as 37 per cent of chicken carcasses may contain salmonella bacteria (and that chicken is therefore a hazard in the kitchen if mishandled), cooked chicken is infrequently a source of salmonellosis because chicken isn't eaten rare. Turkey isn't usually served rare either, but a turkey is more difficult to cook than a chicken. If the middle isn't done, and the bird sits at room temperature so guests can pick at it all afternoon, they may get sick.

The shocker in all this is that so much of the meat we eat is contaminated with feces. How can this be? In the case of chicken, the demand for huge numbers of low-priced birds—Americans ate 4.7 billion chickens in 1985—is answered by high-speed plants that can process 80 chickens a minute by machine. Contamination of the meat can occur during defeathering, when the machinery sometimes presses the bird so hard that feces spurt from the cloaca and drip onto the feathers. The "rubber fingers" that remove the feathers can then inadvertently press the bacteria onto the skin, where it can hide in the empty feather follicles. Contamination can also occur during disemboweling, when high-speed gutters may rip the intestine, spattering small amounts of fecal matter onto the carcass.

Meat from other poultry, as well as that from four-footed animals, can be contaminated during slaughtering or processing. Ground meat, which is handled a lot, is more vulnerable than other cuts to salmonella, or to cross-contamination, if, say, some liquid from a chicken got onto the beef chunks heading for the burger grinder.

The danger of getting salmonella from beef is compounded by the fact that it's often eaten rare. Salmonella researchers eschew steak tartare, even rare hamburger. Most food safety experts at the USDA recommend that all ground beef be cooked to at least 170°. "It won't be pink any more," says Neruda, "but it'll be safe to eat."

All these forms of contamination occur before the food gets to a restaurant or a home kitchen, where the problems really begin. Contrary to what most people think, Americans are far more likely to get salmonellosis at home than in a restaurant. It's just that restaurant outbreaks attract more attention because large numbers of people getting sick simultaneously make the evening news.

"One problem is that we don't cook like grandma used to," says Tauxe. Since the USDA set up a toll-free meat and poultry hotline[1] in 1985—in part to deal with salmonella—it has received 50,000 calls. Hotline questions have included "Is it O.K. to eat groceries that my husband left in the trunk of the car for a week?" and "Can spaghetti sauce left open on the counter for three days hurt me?"

"We hear from very young parents, and even children who are trying to cook," Neruda says. "I'd have to say that the breakdown of the family unit has added to the food safety problem."

Then there are the baby boomers who have rebelled against the overcooked food of their youth. "We live in a kind of happy, yuppie, raw-is-better-and-healthier society," says Tauxe. "We want things fast. We want to heat and serve. Sometimes we don't wait for things to get thoroughly hot."

The microwave oven should be part of the solution, but sometimes it's part of the problem. Certainly, it's an effective sterilizer: "It'll blow up a bacterium the same way it would blow up a canary," says an FDA official. But some older models don't heat evenly, and different models generate different levels of energy, or use more or fewer microwaves a minute. "It's tough to explain on a label," says microbiologist Dane Bernard of the National Food Processors Association, "but six minutes in my microwave might equal ten minutes in yours."

As I recovered from salmonellosis, I resolved to change my ways. I now never leave any food out at room temperature for more than two hours. I have a thermometer in my refrigerator to make sure it keeps foods colder than 40°. I know that hot foods at a buffet—something in a chafing dish, for instance—should be kept at more than 140°. This means the corners too, not just the part over the Sterno.

I also know all the places salmonella can hide. I bought an acrylic cutting board for meat, because bacteria love to hunker down in little crevices in a wooden board. Tens of thousands can live in a single knife mark, but an acrylic board can be put in a dishwasher. Salmonellae can also dry up—sort of hibernate for a year or more—and then wake up when something inviting (i.e., your food) presents itself. Wiping a cutting board with hot soapy water won't remove it. In fact, a dish rag or sponge is frequently the most bacteria-laden object in the kitchen. (I've also invented a nifty trick to overcome this. I now rinse my sponge with hot sudsy water and nuke it in the microwave until clouds of steam spew forth.) Salmonella bacteria can be zapped by rubbing down a board with one part bleach to eight parts water, followed by a clear water rinse.

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[1] 800-535-4555; in D.C. 447-3333.

I don't thaw meat on the kitchen counter any more either, because salmonella bacteria can double in number so quickly that a tiny colony left at room temperature for the day can become a cast of millions. I now defrost frozen food in the refrigerator or the microwave oven. I wash poultry in cold water before I cook it, and I'm careful not to let raw meat juices drip on other foods. When I'm finished washing my meat, I rinse my sink with hot soapy water. I also make sure the plate that carries meat back in from the grill isn't the same one that carried it out. Says Stephen Pretanik, the director of science and technology for the National Broiler Council, "The biggest problem with salmonella infection in meat isn't that the meat is undercooked, but that it's re-contaminated in the kitchen after it's cooked. That's why leftovers get you." And the knife, the fork, anything you use on meat—and God forbid it should be a wooden utensil—should be thoroughly washed with hot, soapy water.

I've also learned that when it comes to salmonella, you can't trust your nose. You can't see salmonellae, you can't smell them, and you can't taste them. "A lot of people think that is something left over doesn't make you go 'yuck,' it can't hurt," says Neruda. "They're wrong."

Now that I've got my kitchen under control, the big question is whether I dare dine out again. I mean, whom can I trust? And whom should I blame for all this salmonella that's going around? "What we have to wonder is to what degree is the individual responsible?" says Tauxe. "You can't protect yourself against salmonella in every situation. It can't always be dealt with at a personal level. We're vulnerable."

And we may be getting more vulnerable. In their paper on the public health dangers of the increasing numbers of antibiotic-resistant salmonellae. Cohen and Tauxe wrote, "Combined epidemiologic and laboratory studies with the use of new methods in molecular biology make it possible to trace [antibiotic]-resistant salmonellae to their primary source—foods of animal origin." Half of all the antibiotics used in the U.S. in 1985 were fed to food animals—as growth enhancers, prophylaxes, and cures. Tauxe and Cohen think this has fostered resistant strains of bacteria.

Although salmonella poisoning in people isn't usually treated with antibiotics—because such treatment won't make the victim feel any better and may prolong the period during which he can infest others—antibiotic-resistant bacteria are risky for a number of reasons. Doctors sometimes prescribe antibiotics for infants, the feeble, and the elderly to prevent salmonella-triggered local infections or bacteremia. Tauxe, Cohen, and other researchers fear that as the number of antibiotic-resistant salmonellae goes up, the physician's choice of therapeutic antibiotics will go down.

Another dangerous aspect of antibiotic-resistant salmonellae is that they can hit a victim when he's already down. "Say you're taking antibiotics for a sore throat or dental work," Tauxe says. "You've now suppressed the good bacteria in your body, including the natural flora of the digestive tract that helps protect you from the invading salmonella. Along comes some salmonella that happens to be resistant to that antibiotic and it just thinks, 'Oh, boy,' and takes off. Now you have salmonellosis.

"Philosophically I suppose you could say, 'So you get sick. So what? Life's full of hazards.' Myself, I think people ought to be writing to their state legislators about salmonella."

At the FDA, which is responsible for ensuring the purity of milk and dairy products, microbiologist John Kvenberg says. "The load of pathogens coming at us in our food supply today is out of control. At the FDA we've never worked harder, never been busier. We're taking a hard look at critical safety control points during manufacturing."

Over at the USDA, which has jurisdiction over meat and poultry, officials are beset by accusations that they've been asleep at the salmonella switch. "That's not true," says public affairs specialist Danielle Schor. "We realize there's a problem, and we're going after it."

To that end, the USDA is researching ways to help industry clean up its act. "We're looking at adding chlorine or acetic acid to the chiller sprays in meat processing plants," Schor says. "We've petitioned the FDA to allow meat packers to irradiate poultry at levels sufficient to kill salmonellae. We're urging producers to look for safe feeds that aren't contaminated with salmonellae. And, most important, we're looking into voluntary microbial standards for meats. What we'll say to the meat industry is 'You meet these standards, and we're going to let you say it on the label.' We think that if just one major producer has this labeling, the consumer will notice, and the others will fall in line."

The reduction of antibiotics in the food chain, a step that's stalled in the Washington bureaucracy, may soon be forced on meat producers by consumers. In my neighborhood gourmet market, a sign over the pricy birds promises that they've been raised without antibiotics. The same claim is made for beef in a local supermarket. Indeed, in the face of generally slumping beef sales, the demand for low-fat, drugfree beef is rising. But while the FDA has proposed banning the use of tetracycline and penicillin in animal feeds since 1977, Congress, influenced by powerful industry lobbies, has repeatedly asked the FDA to conduct further tests. It's unlikely that action on antibiotics will come during the anti-regulatory Reagan administration.

Some hope is offered by newly patented rapid salmonella-screening tests that allow those who process food to detect contamination within 24-hours—about a quarter of the time older lab methods take. "Still, what we basically have to do is assume salmonella is everywhere," says Bernard, "and process foods to keep bacteria from the consumer."

But just in case some of those bad bacteria find their way into my kitchen. I'll be there nuking my sponges, rinsing my poultry, and junking my yuppie menu, I'd forgotten how good and comforting a pot roast, braised until the beef is tender—and safe—tastes. Now I'm thinking of bringing back chicken fricassee.

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[From U.S. News and World Report, March 9, 1987]

## SERVING UP SALMONELLA FOR DINNER

(By Joseph Carey)

If you like your burger juicy and nicely pink, or cherish your fried chicken, you may find these facts hard to swallow: Rare hamburger may carry salmonella, a microbe that causes food poisoning. Almost 4 in 10 chickens in supermarket coolers are contaminated with the bug. And salmonella cases in 1985 jumped to some 56,000, up from about 36,000 in 1984. Those were reported cases—health officials think the real total was 10 to 100 times higher.

Recent news reports notwithstanding, it's not as bad as it sounds. Salmonella is not one but some 2,000 closely related bacteria, all of which cause diarrhea, vomiting and fever. But if you'll take your burger medium rare instead of bloody, you probably can forget about food poisoning, since thorough cooking easily kills the bug. And those germ-laden chickens making their way past the checkout counter are unlikely to stay contaminated. Few people like underdone chicken.

Two recent government statements triggered the news stories. One, from the U.S. Department of Agriculture, said salmonella was in nearly 40 percent of chickens sampled in processing plants. That was old news. Surveys have shown since the early 1970s that about 35 percent of chicken carcasses carry salmonella. It spreads readily, because chickens are bred in close quarters. The microbe also can be transferred to uninfected carcasses during processing. The other report, from the Centers for Disease Control (CDC), tracked a case of salmonella poisoning in California to hamburgers made from cattle given antibiotics. However, the animals were dairy cows, which make up a relatively small source of hamburger meat.

In about three fourths of reported cases of salmonella poisoning, people recover either without drugs or, in a few severe instances, after treatment with ordinary antibiotics. The other 25 percent involve salmonella strains that have developed defenses against antibiotics. Some scientists claim that these tougher strains are a response to low doses of antibiotics fed to beef cattle, hogs and some other animals to make them grow faster. When people eat the animal and get sick, most of them routinely recover. But in severe cases, garden-variety antibiotics are helpless against resistant strains, and the victim can become desperately ill or die by the time stronger drugs are brought to bear.

In the CDC paper, published March 5 in the "New England Journal of Medicine," epidemiologists tracked a single strain of resistant salmonella from infected people in Los Angeles County back to the hamburgers they ate, the slaughterhouse the meat came from and finally the specific dairy cows. Dr. John Spika, the study's main author, says the strain may have arisen because the cows fell ill and were given the antibiotic chloramphenicol. Similar results in another case were reported in a 1984 study by the CDC. The authors of both think the use of antibiotics in animals should be limited to keep resistant salmonella from evolving. The National

Cattlemen's Association urged members two years ago to switch to other drugs to promote growth. Poulty producers say they switched a decade ago.

Drug-free animals?

Some researchers don't buy the antibiotic link. "Animal-to-human transmission is relatively infrequent or we'd see a much higher incidence of problems," insists Virgil Hays, head of the department of animal sciences at the University of Kentucky in Lexington. He contends that resistant salmonella arise because people overuse antibiotics.

Senator John Chafee (R-R.I.) is expected to introduce legislation this week to ban human antibiotics from animal feed. Similar proposals by Chafee last October and by the Food and Drug Administration in 1977 got nowhere. Meanwhile, prodence—but not paranoia—is the order of the day.

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[From the New York Times, May 13, 1987]

## CHICKEN INSPECTION IS FAULTED

(By Irvin Molosky)

Washington, May 12—The Government's program for inspecting chickens is inadequate to protect the public against such dangerous disease organisms as salmonella and campylobacter, a panel of scientists said today.

The scientists, noting that under the current system an inspector examines 60 to 70 slaughtered chickens a minute, said consumers would be better protected with "more rigorous testing of a random sampling of chickens for both microbial and chemical contaminants."

The study was done by a panel of the National Research Council for the National Academy of Scientists.

Salmonella from poultry and other foods causes such serious gastric problems as diarrhea, while campylobacter causes less serious intestinal distress. Each of the microorganisms is thought to affect at least two million people a year, but since campylobacter causes less serious illness, the number of cases is thought to be greater underreported.

The panel's purpose was to determine whether the public is adequately protected by the inspection system.

"We found that contamination with salmonella or certain other microorganisms is the most significant public health risk posed by consumption of chickens," the panel wrote. "Current inspection procedures, however, rely heavily on visual and manual examination of each bird as it is readied for retail sale, and we found no evidence that such procedures provide effective protection against this type of microbial contamination."

One of the panelists, Thomas Grumbly of the Health Effects Institute, a Boston research organization said at a news conference today that the current inspection system, "in fact, isn't oriented toward the public health."

The five other panelists agreed, but they did not recommend that consumers reduce the amount of chicken in their diets, but instead exercise greater care in its preparation and cooking.

The panel called for clear labeling that would provide proper handling and cooking instructions.

What inspectors can do in the one to three seconds they get to examine each bird is look at the inside, viscera, stomach, heart and air sack, said another panelist, Dr. Michael Pullen of the College of Veterinary Medicine at the University of Minnesota.

Asked whether the inspectors were doing a "decent job," he replied, "I've seen some inspectors pick out some fairly minute problems in that time."

Lester M. Crawford, associate administrator of the Food Safety and Inspection Service of the Agricutlure Department, said he concurred with the panel's recommendation for closer monitoring of bacteria and chemical residues. He added that he welcomed a discussion of the future of poultry inspection.

The members of the panel agreed that while the system allowed inspectors to detect visible problems, there was no way of assuring that microbiological and chemical contamination were not affecting the chickens.

In reaction today, George B. Watts, the president of an industry group, the National Broilers Council, said his organization "supports the concept of risk-based poultry inspection suggested in the report." But he added that the report "does not identify any new problem but is a risk assessment of where to best put available resources."

A Washington consumer organization, the Public Voice for Food and Health Policy, applauded the report for pointing out that the inspection system was "not designed to detect microbial hazards, though thousands of people yearly fall ill from these contaminants in poultry."

The organization's executive diretor, Ellen Hass, added, however, that her organization opposed any cutbacks in the system until a new one was in place.

Others on the panel were Josehp Rodricks, the panel's chairman, of the Environ Corporation; John C. Bailar 3d of the Harvard University School of Public Health; J. Glenn Morris of the University of Maryland School of Medicine, and Morris Potter of the Centers for Disease Control.

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[From the Washington Post, May 13, 1987]

## POULTRY CONTAMINATION UNDETECTED, REPORT SAYS

(By Ward Sinclair)

American poultry consumers suffer several million cases of food poisoning every year because federal inspections fail to detect microbial contamination in processing plants, the National Research Council reported yesterday.

The report, prepared for the Agriculture Department's Food Safety and Inspection Service (FSIS), said that the government's system of visual and manual inspections "does very little to protect the public against microbial hazards in broiler chickens."

Joseph Rodricks of Washington, chairman of the study group, an arm of the National Academy of Sciences, said the disease microorganisms campylobacter and salmonella "are both present on a significant number of chickens at the time of slaughter and retail sale."

The panel recommended that the FSIS, which oversees poultry processing, shift its inspection emphasis from bird-by-bird procedures to a more rigorous random sampling of chickens for microbial and chemical contaminants.

Rodricks and other panel members said they did not envision a quick solution to the contamination problem nor did they consider the potential cost of the analysis technique they proposed. Panelist J. Glenn Morris of the University of Maryland School of Medicine said no technology exists to do analyses on the scale or with the speed that would be required.

The panelists said they would not recommend reducing consumption of poultry, but they said consumers could help protect themselves by thoroughly cooking their chicken, cleaning kitchen utensils before using them on other foods to avoid cross contamination and properly refrigerating poultry.

The study team said a large percentage of the 4 million cases of salmonella and campylobacter infections reported each year are linked to contaminated poultry. Many of the infections cause mild distress, such as stomach ache and diarrhea, but others have more serious consequences.

"A major part of the public health problem is being ignored," said panelist Thomas Grumbly of Cambridge, Mass. "We're missing a lot under the current rules that ought to be caught . . . the consumer is the last line of defense, and he ought to press the government and Congress to get results."

FSIS associate administrator Lester M. Crawford said the report supported changes for "modernizing poultry inspection" that his agency has begun. His prepared statement acknowledged the contamination problem, but he said FSIS will outline its reaction in greater detail at congressional hearings in June.

Ellen Haas, executive director of Public Voice for Food & Health Policy, said "consumer confidence in our poultry has been justifiably shaken. . . . While we are eager to see improved systems developed as suggested by NAS, no such system is yet available. We would strongly oppose any cutback on current inspection methods before [they] could be replaced by those with proven effectiveness."

George Watts, president of the National Broiler Council, did not take issue with the report, but he said the poultry industry agreed with the committee that "we have gone about as far as we can to improve efficiency and safety under the inspection program" operated by FSIS.

The report said the nearly half of the campylobacter infections reported in the United States stem from poultry, while poultry plays "a major role" as a vehicle for salmonella infections. The study, however, said it was not clear how many cases of infection could be prevented by improved inspections.

Under federal law, inspectors must observe all of the 4 billion chickens processed each year, looking for lesions, bruises or other signs of disease. The inspector has between one and three seconds to examine a bird, depending on the speed of the processing line, the report said.

But the panelists said that microbial organisms and chemical residues that jeopardize human health cannot be seen. "Many carcases are heavily contaminated with fecal flora, even when the carcasses are clean to the naked eye," the report said.

PUBLIC VOICE
FOR FOOD & HEALTH POLICY

1001 Connecticut Avenue, N.W.
Suite 522
Washington, D.C. 20036
(202) 659-5930

## FACT SHEET

### "The Great American Fish Scandal: Health Risks Unchecked"

- Seafood is the only commercially produced flesh food in the United States not subject to mandatory Federal inspection for wholesomeness. Both meat and poultry have mandatory programs.
- The National Marine Fisheries Service (NMFS), part of the Department of Commerce, conducts the largest domestic fish inspection program in place, but the program is merely voluntary for producers and the agency inspected only 13% of the fish and shellfish consumed in 1985.
- 64% of fish consumed in the United States is imported and receives limited Federal oversight.
- The Food and Drug Administration (FDA), which is responsible for monitoring pesticide and chemical residues in the nation's food supply, samples only a minute percentage of fish for residue hazards---FDA only collected 921 samples of fish in 1982, .00058% of the fish consumed that year.
- According to the Centers for Disease Control, it is estimated that millions of people become ill from food-related illnesses yearly. In 1982, in those outbreaks where the food containing the harmful agent was identified, 24% involved seafood. CDC estimates the outbreaks they document represent only between one and five percent of the actual number of outbreaks.
- Disease from microbiological and parasitic hazards in fish and shellfish can cause symptoms such as nausea, cramps, diarrhea, double vision, dizziness, vomiting, jaundice--and in some cases even death.
- The metals most frequently associated with residues in fish and shellfish are mercury, lead, cadmium and arsenic. Excess levels of mercury can lead to loss of appetite, birth defects, central nervous system damage and kidney damage. Excessive lead can adversely affect the kidneys, blood and nervous system as well as increase the risk of cancer and birth defects. Cadmium has been linked to cancer, liver and kidney damage.
- The per capita consumption of fish and shellfish in 1985 was a record 14.5 pounds. This reflects a 5.5% increase over 1984 levels and an 11% increase since 1980.
- Because fish is low in fat and cholesterol and high in protein, it could become an increasingly important mainstay of the American diet. In addition, recent evidence of the beneficial health impact of fish oil could result in continued increases in the consumption of fish and fish products.
- While certain states have enforcement programs that have reduced the incidence of illness from seafood, many states have no programs and lack the resources to create them.
- During the past 20 years, Congress has considered a number of fish inspection proposals. Five hearings were held. But only once, in 1971, was a bill even reported out of committee.